

STATE TRANSPORTATION BOARD MEETING
PUBLIC HEARING AND BOARD MEETING

Friday, October 17, 2008
9:00 a.m.

Town of Wickenburg Council Chambers
155 North Tegner
Wickenburg, Arizona 85390

Prepared by:

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A P P E A R A N C E

BOARD MEMBERS:

Chairman	S.L. Schorr
Vice Chairman	Delbert Householder
Board Member	Felipe Zubia
Board Member	Victor Flores
Board Member	Bill Feldmeier
Board Member	Bob Montoya
Deputy Director	Richard Travis

AGENCY SPEAKERS:

Counsel	Joe Acosta, Jr., Esq.
State Engineer	Doug Forstie
State Engineer	Barry Crockett
Finance	John McGee
Public Private Partnerships	Gail Lewis
Governor's Growth Scorecard	Shannon Scutari
Governor's Growth Scorecard	Patrick Cunningham
Project Selection Criteria	Rakesh Tripathi
Executive Assistant	Mary J. Currie

PUBLIC SPEAKERS:

Wickenburg Mayor	Mayor Badowski
Wickenburg Board Host	Rusty Gant
Beco Construction	D.M. Anderson
Scarsella Construction	Jason Ebe, Esq.
FNF Construction	Steve Jackson, Esq.
G.U.Y. Construction	Dawn Bennett
Bullhead City City Council	Kathy Bruck
Arizona Aviation Admin	Joe Husband

1 FRIDAY, OCTOBER 17, 2008, WICKENBURG, ARIZONA

2
3 CHAIRMAN SCHORR: Good morning. Thank you for
4 coming to this meeting of the Arizona Department of
5 Transportation Board.

6 Before we delve into what could be a lengthy
7 agenda, I will ask that the Pledge of Allegiance to the
8 flag be led by Bob Montoya.

9 (The Pledge of Allegiance to the flag led by Bob
10 Montoya.)

11 CHAIRMAN SCHORR: We are very pleased to be back
12 in Wickenburg again. We think Wickenburg, and I certainly
13 feel myself, is one of the nicest cities, towns in the
14 state of Arizona. We are especially happy to be back at
15 the Rancho de los Caballeros and with our great host,
16 friend and former Board member, Rusty Gant.

17 Before we get into the agenda, I'd like to ask
18 Mayor Badowski to step forward.

19 MAYOR BADOWSKI: I'd just like to welcome
20 everybody to Wickenburg. It is Friday, so gentlemen, we
21 normally don't wear ties in town. If you really want to be
22 comfortable, take off your ties and your coats. And in the
23 summer on Friday we don't even wear shirts.

24 It's nice to see the Governor's office here,
25 Shannon. Of ADOT we have the Environmental Protection

1 Agency, I thought.

2 Someone here?

3 VOICE FROM THE AUDIENCE: DEQ.

4 MAYOR BADOWSKI: And it was nice having dinner
5 with the Board members last night at Rusty's Los
6 Caberellos, and the Chairman had the pleasure of debating
7 politics with my wife.

8 I hope you're okay after that.

9 And I thank you all for coming. It's a much
10 bigger group than I expected, so please, enjoy the town and
11 do come back. We do have cool nights and fresh air. Just
12 don't stop for coffee when you're going to Vegas. Please
13 stop by and spend the weekend and spend a little money
14 here.

15 Thank you very much.

16 CHAIRMAN SCHORR: Thank you, Mayor.

17 I'd also like to ask Rusty Gant to come forward.

18 MR. GANT: Rusty Gant. Good morning, Mr. Chair,
19 and members of the Board, and let's see who we have, Deputy
20 Director and staff. Thanks. To reiterate the Mayor's
21 thanks, thanks for coming up to visit our part of the
22 forgotten part of Maricopa County up here in Wickenburg.

23 As you know, we are at the extreme end of
24 Maricopa County and extreme south end of Yavapai County.
25 And occasionally they claim us, don't they, Bill, up there

1 in Yavapai or not right now?

2 But just a quick thing, I toured the bypass
3 project with the Board members yesterday, and I'd like to
4 report I think that's going well and on schedule, and I'd
5 like to thank all of ADOT staff involved and Markham
6 Contracting for keeping that thing on track, and I assume
7 it's on budget.

8 It's been a very complex, long pull to get that
9 done with County Flood Control and the Town, and we are
10 pleased with the results so far. So thank you for
11 cooperating in that.

12 My only pitch to you today would be part of the
13 tour I took the Board members on yesterday, and keep in
14 mind, when we get our nice bypass project done and that
15 huge project up at the river gets done, we are going to
16 double possibly two and a half times our traffic through
17 here with mostly trucks. And this leaves the GAP project,
18 which will be from the north end of our bypass up to the
19 Santa Maria project on 93, and that will be one of the last
20 remaining stretches with no program money to build anything
21 above a two-lane roadway at this time.

22 As a community we have serious safety concerns,
23 particularly at the 89/93 intersection, which that's been
24 known as Confusion Corner since it was put in back in the
25 '60s, and we do have fatalities in that area and from there

1 in because of a lack of turn lanes and accel/decel lanes,
2 et cetera.

3 So we would hope the GAP project could be
4 resurrected. I know everybody asks you for everything, and
5 I can remember saying there's never enough money even in
6 good times to take care of the needs across the state, but
7 this is metropolitan Phoenix trying to get to Vegas and
8 back on weekends, not necessarily just us, and we'd like to
9 have them have safe passage through our territory.

10 And so we urge you to, as you can, work us into
11 planning for the GAP and trying to keep that active if you
12 could.

13 Again, thanks for coming. Hope we get to see you
14 again, both as civilians and as Board members, and we will
15 look forward to that.

16 CHAIRMAN SCHORR: Thank you, Rusty.

17 Our next item is the Director's report.

18 MR. TRAVIS: Mr. Chairman, members, one item in
19 particular that consumes the Department right now is the
20 budget and declining HURF revenues.

21 I would like to thank John Magee and John for all
22 the work that they've done in helping Victor and I put
23 together a packet to get us through these tough times.

24 It's a theme that I think we're going to hear for
25 the next several months at these Board meetings about

1 declining HURF revenues and the impact that's going to have
2 on the Department.

3 One piece of good news, again, at John's
4 suggestion and your action, if the Board had not proceeded
5 with the bond purchase that -- or the bond issuance that
6 you did several months ago, given the state of the market
7 right now we would be in more dire straits than we are.

8 So again, this is as much a thank you to John as
9 it is a prelude to some tougher times ahead.

10 CHAIRMAN SCHORR: Thank you. Did you say that we
11 did not proceed with that bond?

12 MR. TRAVIS: No. You did, and because of that
13 we're -- again, we are looking at other states and
14 municipalities that are about to go into the bond market
15 right now, and it's very speculative what they're going to
16 be able to get out of it. Just a few weeks' delay would
17 have put us into that cycle, into that same turmoil.

18 So the fact, again, at John's suggestion that the
19 Board move forward when it did, we avoided entering the
20 bond market at the peak of the upheaval.

21 CHAIRMAN SCHORR: Thank you.

22 Thank you, John, for being so wise.

23 The next item on our agenda is the legislative
24 report.

25 MS. LEWIS: Good morning, members of the Board.

1 It's nice to be here in Wickenburg, and we appreciate your
2 hospitality.

3 I'm here to give a brief legislative report this
4 morning. As Richard mentioned, the thing that is
5 dominating all state political talk is the budget and the
6 possible budget shortfall. I wrote the update that's in
7 your packet about a week ago, and at that time they were
8 talking about a shortfall between 300- and \$800 million.
9 That's now gone up, even in the last week, so we suspect
10 that it may be even more substantial than that.

11 As you know, the Governor has been meeting with
12 all the executive agencies. We are following her
13 directives and putting in ideas of our own on how to help
14 lessen that shortfall and do as much up-front as we can so
15 that if and when a special session is called to deal with
16 this year's budget, our activities are already well
17 underway and we are under control.

18 So we're working very closely with the Governor's
19 office to do that, and John McGee and his staff has done a
20 great job of helping us get there, but the problem is
21 really very significant and very severe.

22 So we're going to just keep plugging away and
23 doing the best we can with financial measures that keep the
24 place afloat, but where we are is absolutely as frugal as
25 possible, and that means even tighter controls than we had

1 in the past and a continuation of the hiring freeze. So we
2 are doing more with less all the time.

3 We have turned our budget -- our legislative
4 request in to the Governor, very, very modest request
5 because there's not going to be any money to do anything
6 significant. So we are really looking more in the line of
7 technical corrections.

8 We had a bill out last year that did not make it
9 in the waning days of session, not for lack of support but
10 just because of all the political craziness.

11 So we are going to -- we resubmitted those
12 changes, some changes in the rule provisions and adjustment
13 to the way the Aviation fund is calculated and a fix for
14 the HOV lane situation. So we'll put that bill back -- we
15 will put that bill forward again, and we believe it should
16 make it through this time. Of course, you never know.

17 We also have a proposal to allow the agency to
18 charge additional fees for encroachment permits, to amend
19 the move over law so that tow trucks and other vehicles --
20 emergency vehicles with flashing lights, also to have the
21 right-of-way in times of emergency. And then there's a
22 number of MVD proposals, as there always are, for rule
23 provisions and change of -- licensing to be in alignment
24 with Federal Motor Carrier -- Federal Motor Carrier safety
25 laws.

1 In addition, the one item that is starting to
2 swirl around and already is having a lot of interest is
3 public private partnerships, and I'm sure you're not
4 surprised to hear that. It's very unclear whether there
5 will be a bill and what such a bill might look like, but
6 there's certainly a lot of discussion about it. And that's
7 probably the bill that has the most potential activities
8 swirling right now, so we'll keep you posted on that as it
9 moves forward.

10 On the Federal side, the highway trust fund, as
11 you all know, you received a number of updates when the
12 trust fund went down in September and then was fixed with a
13 cash infusion by Congress. As you recall, that is a
14 one-year fix only, so we're going to have the opportunity
15 to go through this again next year, unless the
16 authorization passes before September and we have a longer
17 term fix. But we are okay for right now, but that is a
18 short-term fix only, and we're still going to have to deal
19 with a lot of issues at the Federal level.

20 We do have a continuing resolution on the Federal
21 level through March, that we will update through March. So
22 we know what our situation is through March. What happens
23 beyond that right now is quite unclear.

24 The same with the Federal Aviation
25 Administration. That's also been reauthorized through

1 March. What the long-term budget will be there, we are
2 also unsure.

3 Next year is the year that the highway
4 reauthorization fund -- surface transportation
5 reauthorization is due to come up again.

6 ADOT will be hosting a summit in early December,
7 December 2nd, to bring all the stakeholders in. We did
8 this five years ago, and it was very successful to bring
9 all the stakeholders in, communities, COGs, MPOs and any
10 interested private parties and try to come up with a
11 consensus position on reauthorization.

12 Our congressional delegation, I proudly announce,
13 spoiled them. They have become very accustomed to our
14 being able to come in with a consensus point of view so
15 that they're not getting hammered with a number of
16 different requests from different agencies for different
17 things. And they certainly let us know that they would be
18 very happy if we can come in with a consensus position
19 again this year so they'd feel like they had a direct
20 request that had some consensus behind it from their
21 constituents.

22 So we are going to do that this coming December,
23 and hopefully we will be able to achieve that consensus.
24 And we are in the process of putting together all the
25 background materials and lining up speakers for that right

1 now, and you'll get more information on that very shortly.

2 The economic stimulus package, again, this was
3 written a week ago. It changes every day. The House did
4 pass an additional stimulus package that had a large
5 infrastructure piece in it. Whether that -- however, that
6 has not been passed by the Senate. It's unclear right now
7 whether the Senate would come back prior to January to
8 adopt that stimulus, whether they would change it and it
9 would have to go back to the House or whether they will in
10 fact do nothing in terms of investment.

11 The National Governors Association has taken a
12 strong position in favor of the stimulus package that would
13 include investment in infrastructure, but again, whether
14 that passes through the Congress right now is just very
15 unclear.

16 The American Association of State Transportation
17 Officials, that is the Director and all of his counterparts
18 from around the country, are contemplating whether to take
19 a position. Obviously they are in favor of additional
20 investments. They're contemplating whether to take a
21 position, and that may be a resolution that comes out of
22 AASTO that will support what the governors have decided to
23 go forward with. But again, whether anything really
24 happens right now is anybody's guess, so we will keep you
25 posted on that as well.

1 And as of today there are only 18 days until
2 election day. I'm sure some of us thought that that day
3 might never come, that we would just be in endless campaign
4 mode forever, but it looks like it may in fact be over in a
5 couple of weeks.

6 We have kept very close tabs on the platforms of
7 the two candidates with respect to transportation, and we
8 will continue to monitor that, and obviously we will take a
9 great interest on November 5th in what they had to say and
10 what they are beginning to say about transportation and
11 infrastructure.

12 And we also are keeping an eye on all the
13 initiatives and referenda on the ballot to try and analyze
14 their possible impact on ADOT. And once election day is
15 over, we will begin our analysis, and we will get back to
16 you with an assessment of what this election is going to be
17 for us going forward.

18 That concludes my report. If there's any
19 questions, I'll be glad to --

20 CHAIRMAN SCHORR: Are there any questions by the
21 Board?

22 Would you please provide us with more information
23 on the timing of that December 2nd meeting?

24 MS. LEWIS: Absolutely. Absolutely. We know
25 that it's going to be in Glendale. We know it's on

1 December 2nd. I believe it's supposed to start at
2 9:00 a.m. We will get you an official e-mail invitation
3 out very soon.

4 CHAIRMAN SCHORR: Thanks very much.

5 Any other questions, comments?

6 Before proceeding with our next item on the
7 agenda, we failed to take the roll, and I would like the
8 record to show that all members are present, except our
9 representative from Nogales. Thank you.

10 The next item is the financial report.

11 MR. MCGEE: Good morning, Mr. Chairman and
12 members of the Board. I will be addressing Agenda Items
13 Number 4 and 5 today.

14 The first item under Agenda Item Number 4 is the
15 report on September HURF results. HURF collections for
16 September totaled 113.05 million, 1.3 percent over last
17 year and one tenth of a percent over the forecast.

18 Unfortunately while on the surface this appears
19 encouraging, these results were achieved by a one-time
20 adjustment in certain registration fees, commercial
21 registration fees. The total amount of that adjustment was
22 approximately 10.1 million. It was a timing issue with
23 respect to recognition of revenues from the prior year.

24 Without this adjustment September HURF revenues
25 would have been down 7.7 percent over the same month last

1 year and 8.9 percent under the forecast.

2 Year-to-date HURF revenues now stand at
3 327.95 million, including the \$10.1 million adjustment.
4 This is 1.3 percent below last year and 2.4 percent below
5 the estimate. Factoring out the adjustment, we would be at
6 4.3 percent below last year and 5.4 percent below the
7 adjustment.

8 As can be seen on this chart, both of the fuel
9 collection categories and the vehicle license tags category
10 continue to lag last year's results by quite a bit, while
11 the sizable gains in motor carrier and registration are
12 primarily the result of the one-time adjustment that I
13 spoke about earlier.

14 So I guess if there is any good news out there it
15 is the fact that oil prices continue to decline, gas prices
16 have fallen. The place where I buy gas has declined over a
17 dollar a gallon in probably the last two months, two and a
18 half months. What impact the slowing down of the economy
19 will have against that positive remains to be seen.

20 So I'll be happy to answer any questions with
21 respect to HURF revenues.

22 CHAIRMAN SCHORR: Are there any questions of
23 John?

24 MR. MCGEE: With respect to regional road fund, I
25 did not include in your packet the September report,

1 because we have not received final results from the
2 Department of Revenue. However, yesterday afternoon we did
3 receive preliminary results from the Department, not in
4 detail but just in total, and it does appear that the
5 revenues were down for the month of September about
6 7.6 percent compared to September 2007, which would be
7 pretty much in line with what we've seen in the last couple
8 of months with RARF revenues being down 11 and a half
9 percent in July and 8.6 percent in August. So it appears
10 that the sales tax in Maricopa County is continuing to and
11 will continue to struggle for some time.

12 Moving to our investment report for the month of
13 September, ADOT earned 3.588 million on its investment
14 cash, representing a yield of about 3.14 percent.
15 Year-to-date earnings now stand at 11.542 million for a
16 yield of 3.26 percent.

17 Finally with respect to the HELP fund. The
18 September 30th balance in HELP funds stood at
19 86.828 million. This was up about 3.185 million as a
20 result of 2.9 million in loan repayments, 400,000 of
21 interest income. That was offset about \$100,000.

22 I would also like to point out that as the Board
23 is aware, a substantial portion of the cash balance in the
24 HELP fund, 50 million of the 86 million, represents Board
25 funding obligations, which, as I briefed the Board

1 previously, are subject to call if the balance in the state
2 highway fund falls below a certain level.

3 We continue to receive indications that that
4 could happen within the next several weeks or months. Not
5 only could the \$50 million in HELP fund be called, but also
6 the \$60 million that we have in the state highway fund will
7 also be called. So we're keeping an eye on that.

8 And the good news is at least with respect to the
9 \$50 million, we were anticipating we might get to this
10 point. The Board wisely chose to suspend new loans, so
11 we're in pretty good shape. We believe we can -- even with
12 a call we can still cover the loans that the Board has. I
13 believe we can cover the loans that the Board has approved
14 to this point.

15 So I'll be happy to answer any questions that the
16 Board might have with respect to Agenda Item Number 4.

17 CHAIRMAN SCHORR: Are there any questions of
18 Mr. McGee?

19 MR. FELDMEIER: I have one.

20 CHAIRMAN SCHORR: Bill.

21 MR. FELDMEIER: John, can you tell me if ADOT has
22 ever had to go through the exercise of making a call?

23 MR. MCGEE: Have we ever had to exercise that
24 call?

25 MR. FELDMEIER: Right.

MR. MCGEE: Mr. Chairman, Mr. Feldmeier, no.

MR. FELDMEIER: In the anticipation of that are you notifying these folks who have these loans that this can possibly happen?

MR. MCGEE: Mr. Chairman, Mr. Feldmeier, if the call comes, what that means is the balance in our account will go down, which means obviously we can't make any more loans for some time. But we should not -- first of all, we don't have the ability -- once we make a loan to an entity we don't have the ability to call their loan. So we have to manage this very carefully to ensure that we don't get too far ahead on doing loans.

We believe that we can -- we believe that we will not have a problem with having to call loans that we can't call anyway. It's just a matter of our balance will go down.

MR. FELDMEIER: Okay.

CHAIRMAN SCHORR: Any further questions of Mr. McGee?

Move on to Item 5.

MR. MCGEE: Pertaining to Agenda Item Number 5, I just have a couple of things I wanted to discuss. First of all, as I indicated at the last Board meeting, the roughly \$180 million HURF bond issue that we priced on September 8th, thankfully, just literally days before the

1 credit market started freezing up, we did successfully
2 close two weeks later, and so that money is in the bank.

3 I have included -- and I thought we might be able
4 to have just a small discussion that relates to what
5 Mr. Travis was speaking about earlier. I have included in
6 your packet a chart that tracks -- it's called the Bond
7 Buyer 25 Revenue Index. This is an index, kind of like the
8 DOW and the stock or the NASDAQ or something like that.
9 It's just an index that gives you the ability to kind of
10 look at relative revenue bond rates over a long period of
11 time.

12 And if you look at that chart, I'll point out two
13 things: Number one, if you look at the fourth column under
14 2008, you'll see that in the second week of September,
15 which is the week that we priced the HURF issue, that the
16 rate at that point -- the index, the 25 revenue bond index
17 stood at 5.09 percent.

18 Since then -- in the four weeks since then that
19 rate has risen from 5.09 percent to 5.97 percent. That's
20 almost a full percentage point increase, maybe a bases
21 point increase. That is pretty remarkable. If you go and
22 you look at the rates going all the way back week by week,
23 all the way back to 1997, which is over the last ten years,
24 the length of the information on this chart, I don't think
25 you'd ever see a period where rates have jumped like that.

1 In fact, at this point that index is at its
2 highest level since, I believe, June of 2000. So it's been
3 almost over a year since we've seen the rate at that kind
4 of level.

5 CHAIRMAN SCHORR: Can you explain to us your
6 reasons why that is occurring?

7 MR. MCGEE: Mr. Chairman, certainly. It has
8 purely to do with the fact that anytime -- money is like
9 any other commodity. When it becomes scarce the price goes
10 up, and right now money as a commodity is very scarce
11 because of those with money, primarily banks, are holding
12 on to it because of the losses that they are sustaining on
13 certain investments and in order to maintain the ratios
14 that they need to maintain to stay healthy. And so that
15 has produced worldwide -- it's not just banks in America,
16 but it's banks worldwide that has produced a scarcity of
17 that commodity called money which has driven up the price.
18 In its simplest form that's what is happening.

19 CHAIRMAN SCHORR: Is there discussion in the
20 market that that price could become more volatile by reason
21 of the fact that more municipal bonds may be put on the
22 market by ailing institutions such as AIG?

23 MR. MCGEE: Mr. Chairman, that is one of the
24 things I wanted to talk about.

25 How this credit issue will affect municipal debt

1 certainly will play out over time. I have my own ideas.
2 Nobody really knows. We're really kind of in unprecedented
3 territory here.

4 But here's the good thing about municipal debt:
5 What generally ends up happening is anytime interest rates
6 start going up, anytime there is what people call a flight
7 to quality where people start investing heavily in
8 government securities, treasuries, which is what people
9 normally do in times of panic and stress, normally what
10 ends up happening is that once the panic level settles down
11 a little bit and people sort of back off from the ledge and
12 take a deep breath and determine that the world isn't going
13 to end, then they start looking at the returns that they're
14 getting on treasuries. And because treasury yields get
15 driven down every time you have these kinds of incidences,
16 people start saying, Well, okay. I don't think the world
17 is going to end. I'm willing to take a little bit more
18 risk with my portfolio. Where is sort of the next level of
19 risk where I can pick up some return?

20 And usually one of the first areas that people
21 turn to, thankfully for us, is the municipal market,
22 because again, you're dealing with securities that are
23 backed by tax revenue pledges and tax revenues. And so
24 they sort of start going down the chain, and they start
25 looking at the most creditworthy of municipal debt.

1 For example, right now municipal debt, you know,
2 if people have money to invest, getting into municipal debt
3 right now is extremely attractive. You know, you're
4 getting -- for pretty safe securities, in many cases you're
5 getting taxable equivalent rates of seven, eight percent,
6 which isn't too bad, and it's going to be a pretty safe
7 investment.

8 So the good news is that when these kinds of
9 things happen, one of the first areas that tends to fall is
10 in the municipal area, and capital starts moving to that
11 area.

12 Now, with that said, I would also say this:
13 Because of the events of the last year, I think there's
14 going to be a tremendous amount of differentiation in what
15 municipal entities do have access to credit markets and
16 which ones don't. By that I mean, if you look at the
17 problem overall, the fact that the commodity of money has
18 become very scarce, my belief is that it ultimately will
19 begin to thaw out, the credit freeze will begin to thaw out
20 and money will begin to flow again.

21 But with that said, my belief is money is going
22 to flow to the most creditworthy, whether it's individuals,
23 whether it's businesses or whether it's governments. And
24 frankly, one of the things that got us in the position
25 we're in right now is that there was too much of a

1 commodity called money. It became too cheap, and people
2 who traditionally didn't have access to the commodity all
3 of a sudden had access to it, and now there's problems
4 because of that.

5 So there's a tremendous amount of deleveraging
6 that's going to have to take place with individuals,
7 businesses and governments before this -- this is John
8 McGee speaking, not Ben Bernanke for obvious reasons. But
9 it's my belief that there's a tremendous amount of
10 deleveraging that's going to have to take place before this
11 entire problem is behind us, and it's going to have to take
12 place at all levels. As credit becomes more available,
13 it's going to flow to those who are most creditworthy.

14 In the municipal area there's going to be, I
15 believe, a tremendous problem with lower-rated credits in
16 the municipal area because, A, what I've just spoke about,
17 limited commodity of money compared to the past, and B,
18 because one of the major sources that allowed lower credit
19 municipal debt entry into the market is gone for all intent
20 and purposes, and that is the municipal insurers.

21 So if you are an A-rated credit -- if you're a
22 small city or county, you're an A-rated credit. If you're
23 in a B category credit, your ability to attract capital
24 from the market is just going to be much more difficult in
25 my opinion than it was before.

1 The good news for the Board is that, as you know,
2 ADOT's bonds or credits are highly rated. Double --
3 everything that we issue is Double A or Triple A rated, and
4 those are the kinds of credits that capital will flow to
5 first. So we're in pretty good shape.

6 We also have always insisted on issuing fixed
7 rate debt, which I think certainly over the course of the
8 last year or so has greatly been to our advantage. We have
9 not entered into things like derivatives and swap
10 agreements or auction rated bonds or other types of
11 variable debt which have caused, frankly, a lot of problems
12 with municipalities and governments that have issued --
13 that have done those kinds of deals. Not necessarily that
14 they were bad, but they've certainly put people in a
15 difficult position over the last year or so.

16 Again, I believe that the days -- if you go back
17 to the little chart, if you go back you'll see that the
18 lowest that this index ever reached was in March of 2007
19 where the index got down as low as 4.38 percent. I don't
20 think we're going to see an index like that anytime soon.
21 So the cost of capital is going to be going up.

22 The other thing that's also going to impact the
23 cost of capital is what's going on in the investment
24 banking community and the banks that traditionally sell our
25 bonds for us. I was looking at -- the State just reformed

1 its investment banking pool I want to say about two years
2 ago. At that time I believe there were 17 firms that were
3 qualified to do business with the State.

4 I was looking over that list a couple of days
5 ago, and I didn't do an exact count, but I would guess at
6 somewhere between one half or two thirds of all of those
7 firms that qualified for our investment banking pool as
8 recently as two years ago have either reformed their
9 structure as has Goldman and others have done -- have been
10 acquired, as Bear Stearns was acquired, and others have
11 been acquired or have gone out of business as Lehman
12 Brothers did.

13 So it is absolutely remarkable what's going on in
14 that industry. It is shrinking. There's going to be less
15 firms, and anytime you have less firms chasing business
16 that generally means higher prices.

17 As we move forward I suspect that we are going to
18 be seeing higher prices, probably some higher prices with
19 respect to our overall cost for doing bond issuances.

20 So I guess that's about all I have to say.
21 Anybody has any questions, I'll be happy to try to answer
22 them.

23 CHAIRMAN SCHORR: Thank you for that tutorial.
24 That's probably as sound of advice that has been uttered in
25 the last few weeks.

1 Are there any questions or comments?

2 I do have a question, John. Mr. Zubia, Felipe,
3 has circulated to the Board some newspaper stories from San
4 Francisco, I believe, which described some litigation which
5 is being undertaken by municipal authorities in that area
6 and perhaps elsewhere as well against the bond rating
7 agencies, who as I recall -- Felipe, feel free to jump in.
8 As I recall the bond rating agencies were giving higher
9 ratings to obviously what proved to be obviously very poor
10 investments and giving lower ratings to municipal bonding
11 authorities, thus charging -- thus exacting a higher price
12 for the municipals when they went into the market, if I've
13 described it accurately.

14 Felipe, feel free to jump in.

15 MR. ZUBIA: Actually, John did a very good job
16 explaining it to me in a prior phone call.

17 John, feel free to ...

18 MR. MCGEE: Sure. Actually, the article that
19 Felipe sent me, I found kind of fascinating. I don't quite
20 understand what San Francisco is doing, because actually
21 what they are doing isn't suing the credit rating agencies,
22 who in my humble opinion, you know, they might have a case
23 against. I don't want to say they have a case against. It
24 might make sense to try to sue.

25 What they're actually doing is suing the bond

1 insurance companies. And that -- I am not really sure what
2 their thinking is there, personally, other than I think as
3 more and more municipalities lose more and more money on
4 some of the deals that they've been involved in, and some
5 of these more complex and exotic issuances begin to unwind,
6 I think you're going to just see a plethora of everybody
7 suing everybody trying to recoup whatever they can.

8 But as I explained to Mr. Zubia, I found the
9 article quite interesting in that they are going after the
10 insurers. It would probably make more sense to go after
11 the credit rating agencies. The insurers aren't the ones
12 that set the ratings. The rating agencies did that.

13 The insurers existed solely as an enabler for
14 those who received lower credit ratings to access the
15 market by insuring their debt. So why they would be going
16 after the insurers is kind of beyond me, and why the
17 issuers would be going after the insurers is also a little
18 bit mystifying.

19 When you issue debt, and it's insured, you
20 receive the benefit as the issuer immediately because
21 you're able to access the market at a lower cost. If that
22 insurance company goes away and you don't pay your bonds --
23 you don't make your debt service payments on your bonds and
24 the insurance company has gone away, then the holders of
25 those bonds suffer because the insurance isn't there to

1 cover them.

2 And even as the insurance goes away, now the risk
3 of holding those bonds goes up, so therefore the value of
4 those bonds goes down. So I can see issuers potentially
5 suing the insurance company -- I'm sorry -- bond holders
6 suing the insurance company, and the issuers may be suing
7 the credit agencies. But the issuers suing the bond
8 companies, I found to be kind of interesting. But I'm sure
9 they have a legal theory for that.

10 MR. ZUBIA: It's based on who has the most money.

11 If I can just go back and summarize the issue and
12 the reason why it came up. If the Board will recall
13 earlier this year when we were getting ready to issue bonds
14 the question was raised as to why -- I believe we were
15 rated at Double A and comparable bonds in the private
16 sector were Triple A ratings. Is that correct?

17 MR. MCGEE: Actually, the argument -- the
18 discussion that we had earlier in the year is that
19 generally speaking if you have a Double A-rated government
20 entity and a Double A-rated corporate entity, the risk of
21 default from the Double A-rated governmental entity is
22 generally quite a bit less than the risk of default on the
23 Double A-rated corporate entity, and therefore having been
24 both rated Double A just isn't right.

25 Now, you know, my response to that is really

1 twofold. I think there's been enough made of the issue,
2 particularly by the State of California and other states,
3 that I think both rating agencies are moving towards a
4 different rating quote, so that differentiation is more
5 apparent. How long it takes them to get there, I don't
6 know, but I think they are moving in that direction.

7 But I would also say this: Most entities who buy
8 governmental bonds and buy corporate bonds sort of
9 instinctively know that. They know that if they are buying
10 a Double A-rated government bond versus a Double A-rated
11 corporate bond, there is a distinction there. Now, maybe
12 to a less sophisticated investor, but to more sophisticated
13 investors they realize that those are not the same thing.

14 MR. ZUBIA: So I guess the concern at least in my
15 mind and the rest of the Board's minds is to the extent
16 that discrepancy causes that issuer to go out and get
17 insurance, therein kind of lies the problem, and that is
18 where I think the basis of the lawsuit, if I can assume,
19 is.

20 So with that being the case, understanding that
21 you've looked at it and you have a different take on it,
22 what I'd like to ask though is that the Department
23 continues to watch it and to monitor it, and that we also
24 refer to the AG's office so they can continue to monitor
25 it. And at any point in which we feel that this state may

1 have standing that we pursue it and the Board gets an
2 update.

3 MR. MCGEE: The good news is we have insured very
4 few of our bonds, and the ones that we have is only because
5 the insurance was so cheap compared to the additional yield
6 that we would pick up or avoid, I guess, if on sale. It
7 just made economic sense to do it.

8 So we only have two issuances, both grant
9 issuances that are insured and everything else is not
10 insured, and they were both smaller issuances.

11 MR. ZUBIA: That's it on that issue, but I do
12 have a few follow-up questions on the overall finance
13 report.

14 Congratulations again for hitting the bottom of
15 the market just about this year. In looking at the record
16 here, it wasn't -- it was as far back as June of this year
17 that it was a little bit lower than what you got it at.

18 And if history serves, I'm hoping that 2009 is
19 going to be the same as in 2007 where you hit the bottom of
20 the market, so congratulations.

21 But with that in mind, understanding, of course,
22 that the cost of money is going up, we've already dealt
23 with the cost increase in construction materials, design,
24 and now with the triple whammy with the decrease in
25 revenues. I guess a couple of things I want to ask in

1 regards to that.

2 We dealt with the cost increase in construction
3 design relatively well. I think we're caught up to this
4 point.

5 At what point are we going to take a look at the
6 hit that we are taking on the decrease in revenues, I
7 guess, as well as the increased cost to borrow? When is
8 that going to be factored into the program? And let me add
9 on to that a little bit. We did our projections way back
10 earlier this summer and in the spring. This real big
11 financial mess didn't hit until this fall. So obviously
12 there's going to be some discrepancies as to what we are
13 projecting in revenues, what we thought it was going to
14 cost to borrow money. Does it make sense to take a look at
15 that and revise our projections accordingly?

16 MR. MCGEE: Mr. Chairman, Mr. Zubia, those are
17 very valid points that you've raised. Here's the way that
18 our process works: We put together a pretty detailed
19 financial plan estimating what the cost of money is going
20 to be, what the cost of our projects is going to be, how
21 much revenue we have coming in. We do that with a great
22 level of detail before the Board approves the five-year
23 program.

24 Once the Board approves the five-year program we
25 start the whole process over again. We do a preliminary

1 estimate with what the new fifth year will bring in in
2 terms of funding. We have done that. We've given that to
3 our planning people to start looking at what the new fifth
4 year would look like.

5 But the other thing that we will be doing
6 between -- now that we have done that, between now and the
7 time the attending comes out, we will be going through and
8 updating both of our HURF and RARF estimates. We've gone
9 through the risk assessment process with our panel, the
10 Commerce. We've gotten some preliminary results back. We
11 are reviewing those results right now, and by the next
12 Board meeting I anticipate that we will have and be able to
13 present to the Board our updated official forecast for both
14 HURF and RARF.

15 And I can tell you right now that HURF is
16 probably not going to change too much because we did a
17 fairly significant interim forecast change that we
18 incorporated into the five-year program -- in the last
19 five-year program. RARF is going to come down a lot, but
20 we'll have the details at the next Board meeting.

21 But we will also be looking at and working with
22 the planning folks and the construction folks, looking at
23 both -- looking at costs in combination with the revenues,
24 and we will also be going back in and relooking at our
25 assumptions with respect to the cost of borrowing over the

1 five years. That will give us a new amount of money
2 available for programming, and then we will have to take
3 the current program and see how that fits within the next
4 five-year planning cycle, whether it still leaves money for
5 the new fifth year or stuff has to be pushed out in the new
6 fifth year, how that works. So we will do that between now
7 and the time that we bring a recommendation for the
8 tentative to the Board.

9 But even from that point, as we go forward into
10 the May and June time frame, we do one more look at it
11 before we finally sign off and give the final
12 recommendations to the Board for the five-year program. So
13 there's really two significant steps, but we will be
14 looking at all of that over the next year.

15 MR. ZUBIA: We should be getting an update.

16 A couple of other questions dealing with our bond
17 rating. We are a very highly rated agency, and to what
18 extent do you think our decrease in revenues, our State
19 budget shortfall is going to affect that bond rating?

20 MR. MCGEE: Mr. Chairman and Mr. Zubia, that's
21 always a tough question. The HURF bonds, which are Triple
22 A-rated bonds, we went through and had conversations with
23 both rating agencies just prior to the issuance of the debt
24 in September. So they're pretty well up to date with
25 respect to certainly how our revenues did last year and how

1 they are doing this year, and in both cases they've
2 reaffirmed the ratings.

3 You know, depending upon how bad things get, you
4 know, you're always subject to that, but we're in the same
5 boat as everybody. Revenues -- government revenues across
6 the board have gone down across the country.

7 MR. ZUBIA: Does the call that we may experience
8 on the HELP fund affect our ratings or anything in the
9 program?

10 MR. MCGEE: I don't believe that they will.

11 MR. ZUBIA: One last question: The managers of
12 our bond issuance, to what extent are they going to charge
13 us more to manage those funds because of this, if any? Do
14 you anticipate that? Is that something we are looking at
15 to become more competitive with those managers?

16 MR. MCGEE: Mr. Chairman, Mr. Zubia, we will try
17 our best to make sure that those costs don't go up too
18 much.

19 You know, the simple fact is that when you have
20 less firms in that business -- the major cost that we pay
21 on a bond issue to the underwriting firms is the commission
22 for selling the bonds. Commissions over time, certainly in
23 the last 20 years since I came to work here, have just
24 fallen through the floor, and it was really because of the
25 competitiveness of the business.

1 With fewer firms, whether or not they will be
2 able to command higher commissions, you know, remains to be
3 seen. It really does depend upon how this all shakes out,
4 but that possibility does exist.

5 For example, we're probably paying on commissions
6 right now, we're probably paying a third to a fourth on any
7 given bond issue of equal size what we were paying in
8 commissions 15, 20 years ago.

9 MR. ZUBIA: With that in mind, if you do see a
10 rise in that area, I would like to have a summary of the
11 comparison over the years.

12 MR. MCGEE: Certainly. In fact, in the materials
13 that we provide with -- the final pricing materials that we
14 provide with each bond issue, there is a section in there
15 that goes back to every bond issue that the Department has
16 ever done, and it breaks out all of the expenses. And
17 included in those expenses is what we call the takedown or
18 the commission that we pay. So you can see that for every
19 single issue that we've done, and if it starts going up
20 you'll see that.

21 MR. ZUBIA: Thanks, John.

22 CHAIRMAN SCHORR: Any further questions or
23 comments?

24 Could you tell us, John, while Felipe wisely
25 raised that question, what was the commission on the last

1 bond issue, if you can easily remember?

2 MR. MCGEE: Do you remember, James?

3
4 VOICE FROM THE AUDIENCE: About three and a half.

5 MR. MCGEE: I was going to say about three and a
6 half, about \$3.50 per thousand dollars of bonds.

7 MR. ZUBIA: One of the things --

8 MR. MCGEE: It used to be like 10 to \$12 in the
9 old days.

10 MR. ZUBIA: Never mind. I will hold my comment.

11 CHAIRMAN SCHORR: Any further questions or
12 comments?

13 We've taken a lot of time with asking John McGee
14 to make his presentation to ask questions, but obviously
15 given the times we live in, we think that this is a high
16 priority issue. And fortunately we have had the gifts of
17 John and his staff to advise us and help us along this way.

18 One final note, if you would be good enough to
19 discuss the concerns raised in the articles with the
20 attorney general's office to get whatever input we can from
21 them to see if there's anything valid out there for us to
22 be thinking about.

23 MR. MCGEE: Okay.

24 CHAIRMAN SCHORR: Thanks again.

() 25 The next item on our agenda is discussion of the

1 public private partnerships in rest areas.

2 MS. LEWIS: Thank you, Mr. Chairman and members
3 of the Board. I'm glad to be here today to provide an
4 opportunity to update you on the public private --
5 possibility of using public private partnerships for rest
6 area development. Compared to what John's work does to
7 save the financial health of the agency, I think this is
8 going to be a pretty small drop in the bucket, but we're
9 going to take everything we can.

10 As you know, we have had our consultant working
11 on this for about five months now, and the consultant will
12 be ready to come back to you in November with some more
13 detailed findings. My intention today is simply to give
14 you an update on what we know from him so far as to lay the
15 groundwork for him to come back in November with a more
16 complete report.

17 Just as a quick reminder on background. Thorough
18 legislation prohibits development of public private
19 partnerships in the right-of-way of Federal and
20 Federally-aided highways. So it makes it difficult to do
21 public private partnerships within the right-of-way.

22 What we do have is the ability to look at PPPs
23 that are in private right-of-ways, for example, just
24 outside of the public right-of-way, and that's where we've
25 been focusing our attention.

1 What the consultant has been working on for us
2 for the last several months has been a review of the best
3 locations for possible PPPs for rest areas -- for proposed
4 rest areas.

5 Some principles that we need to -- that he's
6 recommending that we include in our approach, whether those
7 need to be included legislative or through rule-making or
8 just a policy statement.

9 He's also working on a financial analysis of the
10 specific sites that he's been looking at, and then he'll
11 have final recommendations and next steps. And again, we
12 expect that he will be here at our November meeting to
13 present those to you.

14 Just a quick reminder that the circled areas are
15 the ones that we are taking a look at with the consultant's
16 advice as being the most viable locations for PPPs going
17 forward. And that is up at the top, Juniper Mountain,
18 which is on I-40 east of -- west of Flagstaff. And then at
19 the bottom -- I think the circles are a little off on
20 that -- anyway, you see the purple note there for Vekol
21 Wash. Since I can't figure out -- Vekol and Juniper
22 Mountain.

23 Vekol Wash is just off of I-8 down in the Casa
24 Grande area, and those are the two that have been
25 identified by staff and by our consultant. They are in

1 agreement with that, that those are the two most likely
2 areas going forward that would have viability for being a
3 PPP.

4 The consultant has recommended some sort of
5 principles or guidelines that we should include in our
6 thinking. Staff is reviewing those right now to see
7 whether we think these need to be adopted legislatively or
8 through an official rule-making process or whether they can
9 just be policy statements from the Board or guidelines to
10 staff as we move forward on PPPs.

11 And I think one of the lessons learned through
12 this is don't underestimate the importance of the truck
13 stop lobby. I had no idea, but apparently the National
14 Association of Truck Stop Operators is very powerful, and
15 basically that association has prevented any Federal
16 legislation loosening up the possibility for PPPs along
17 Federal highways for quite some time.

18 This is an issue at the Federal level. In fact,
19 this was part of an AASTO conference call that we had just
20 yesterday on new policy recommendations coming out of USDOT
21 in the waning days of the Bush administration. This has
22 been a priority for them every year, and they've actually
23 stepped it up this year because of the financial shortfalls
24 that are facing governments at all levels right now. So
25 this is being worked federally as well.

1 We were advised that we should try and be in
2 conformance with the Federal Oasis Program, which has a
3 series of -- basically regulations attached that the truck
4 stop operators feel comfortable with, and so statements
5 that we are going to conform to those guidelines I think
6 would prove to be helpful in giving them a comfort level
7 about this.

8 Also obviously a clear statement of priority that
9 we need to receive fair market value for our participation
10 in PPPs prevent us from getting crosswise with the State
11 Constitutional Gift Clause to private vendors, and I think
12 it's pretty obvious that we will do that, but it is a good
13 thing to include as a matter of policy and record.

14 Again, as a way of trying to diminish any
15 opposition from the private sector, if we sort of stick to
16 the two sides that we've identified as being our first
17 priorities, that would give us a chance to work with the
18 professional owners and operators and give them a level of
19 comfort with our program before we get much more expansive
20 with it going forward.

21 Then just some general guidelines for the kind of
22 procurement process that we go through, the characteristics
23 that would be part of any program that we would put forth,
24 entering into leases which would permit private entities to
25 develop, own, operate, build, maintain whatever the list

1 is, and we could go with an agreement that could allow all
2 of those things or we can go with an agreement that would
3 allow only operating, for example, and the State can be the
4 constructor.

5 There are any variety of ways that we can
6 approach this, and I think the point is that we would want
7 this to be as flexible as possible to minimize cost for the
8 State and maximize revenue potential with the private
9 sector.

10 And then we should have the flexibility to
11 develop and operate facilities in a way that would enable
12 us to maximize our revenue again, and you know, very
13 similar to the flexibility that we have on private
14 highways -- on highways, frankly, to do a design build,
15 operate some alternative contracting methods. Obviously
16 these kinds of innovative build-design-finance combinations
17 are sort of at the heart of what PPPs are all about, and
18 anything we need to put forth, a statement, that we have
19 the flexibility to work in that way.

20 Now, the 15-year concession term seems to be the
21 market standard, and that would be the preferred length
22 that the consultant would recommend to us. And we also
23 should be able to accept unsolicited proposals and
24 evaluation criteria, recognizing that there's also a
25 possibility that that could just become overwhelming for

1 staff. And we might want to at some point go back and
2 revisit that, but at least initially it would be suggested
3 that we would have the opportunity to accept those.

4 Staff is in the process right now of reviewing
5 those principles and seeing whether we think they actually
6 need to be addressed legislatively. You may recall that
7 there was a very brief piece of legislation adopted at the
8 last session, basically two-and-a-half sentences long, and
9 it says, ADOT shall have the ability to enter into public
10 private partnerships for rest areas, and the only
11 limitation is that they will have free lavatory facilities
12 and free picnic facilities, and that's about all it says.

13 So we are in the process of looking at that and
14 seeing whether we would need to go back and amend that in
15 order to accommodate some of the recommendations, or if in
16 fact that's broad enough to allow for everything, and what
17 we really need is just a policy statement from the Board
18 directing the staff to use these principles going forward.
19 So we are in the process of looking at that right now, and
20 hopefully we will have those recommendations by November
21 when the consultant comes back to you.

22 And the other thing the consultant is going to be
23 talking about next month in some detail is the financial
24 feasibility of these two sites in particular. And although
25 I have not -- the reason this is not on your agenda today

1 is that he was not going to be able to have the numbers to
2 you in advance of today's meeting, and we just felt like
3 this was too -- the Board's been interested in this for a
4 long time. It could potentially be quite complex and a
5 pretty significant amount of financial analyses. We just
6 didn't feel comfortable rushing this on to the Board agenda
7 without staff having had adequate time to look this through
8 and without giving the Board a chance to review it in
9 advance so you can be prepared with questions. So that's
10 why we elected to postpone the consultant's report for
11 another month.

12 And they're basically looking at rest areas
13 around the country. They have data on financial viability
14 at completely private rest areas as well as public private
15 rest areas. What the public sector can bring to the table
16 with that will all be part of their recommendation and
17 analyses for these two sites for next month.

18 And again, the next steps are for us to review
19 the guidelines and principles, for us to take a look at the
20 consultant's report when it comes in to make sure that our
21 questions are answered before we feel comfortable in
22 allowing the Board to take a look at this in a public
23 session and ask their own questions and then be prepared to
24 move forward on next steps after that.

25 Unfortunately, because I haven't seen the whole

1 report yet, we can't really tell you at this point whether,
2 you know, November will be sort of the last public session
3 on this and we will be ready to move forward or whether
4 we'll need some further Board discussion. We are just
5 going to have to wait and see the final report before I can
6 make assurance of that for you, but I can tell you that
7 you'll know a lot more after the November Board meeting
8 than you've known before about moving forward on that.

9 And that's what I have at this point. I will be
10 glad to answer any questions, and if there's anything in
11 particular you'd like in the next month prior to the
12 discussion, we'd like to find that out.

13 CHAIRMAN SCHORR: Thank you.

14 Are there any questions or comments?

15 Mr. Montoya.

16 MR. MONTOKYA: Ms. Lewis, when this report is
17 finalized, you believe that it will be in advance of the
18 meeting or will we be able to see that report prior to the
19 meeting?

20 MS. LEWIS: Mr. Montoya, Mr. Chairman, we have
21 told the consultant that if he cannot have that to us ten
22 days prior to the next Board meeting, that we will put it
23 off for another month. It's going to be -- we think it's
24 going to be too complex and too important for you not to
25 have a chance to look at it in advance. So he has a firm

1 deadline of ten days before the next Board meeting to be
2 able to have that to you in your packet.

3 MR. MONTTOYA: On the principles portion of your
4 presentation you state that ADOT should have the
5 flexibility to develop and operate multiple facilities.
6 That will be covered in the report, how those will be
7 handled, so I won't go into detail, or should we cover that
8 now?

9 MS. LEWIS: Sorry. We're having technical
10 difficulties.

11 I believe that he is going to go into more
12 detail. Again, we're going to look at the preliminary
13 information that we have from him and come back with a
14 recommendation for how we might adopt that, whether it
15 needs to be done more formally, whether we need additional
16 legislative authority or whether it can be done as a policy
17 matter by the Board.

18 Whether we can tell you exactly how we would
19 proceed within our P, for example, I'm not sure we're going
20 to have enough information in a month to be able to give
21 you very detailed steps about how that would happen, but we
22 will be able to give you an outline on how that will
23 happen.

24 MR. MONTTOYA: Thank you.

25 CHAIRMAN SCHORR: Mr. Feldmeier.

1 MR. FELDMEIER: In anticipation of your
2 presentation today -- which by the way I believe was very
3 good. It was a really good update -- I looked at our
4 minutes from when we discussed this with the consultant,
5 which was a year ago August. So what's happened during
6 that period of time, 12, 13, 14, 15 months, that we're now
7 trying to press him to finish something within 30 days?

8 MS. LEWIS: Mr. Feldmeire, Mr. Chairman, I don't
9 think we're pressing him to finish it within 30 days. We
10 could have probably pressed him and had something sooner
11 than this, but I don't think -- I'm not the project manager
12 on this, so I'm a step removed from the day-to-day project
13 management. But I don't think that the staff felt
14 comfortable with the information that they had.

15 They didn't feel that the information they had
16 enabled them to be ready to come back with an actual
17 program, and so we have allowed him to take some additional
18 time to get there.

19 MR. FELDMEIER: I'm not so much concerned about
20 30 days as I am wondering what happened in the 15 months.
21 Because when we had the discussion in August a year ago, we
22 were pressing to get something complete so that we would be
23 prepared for the last legislative session. And at the
24 recommendation of not only staff but others, the consultant
25 being one, they were uncomfortable that they would have the

1 opportunity to absorb that information on a completed study
2 that quickly to be prepared for last January's session.

3 So now here we are in a shorter time span to try
4 to absorb the information that could have happened over
5 this 15-month period of time in order for us to prepare
6 adequately for the session that's going to begin in
7 January.

8 So you know, I'm a little -- you can fill in the
9 blank. Help me out with that. So who's been watching this
10 guy?

11 MS. LEWIS: Mr. Feldmeier, Mr. Chairman, I do
12 feel your pain, and I'll fill in that blank and you can
13 fill in the blank that just could have been going around
14 about allowing free toiletries at rest areas.

15 I don't have a good answer for you, and I
16 apologize for that. As I mentioned, I'm not the project
17 manager on this, so I have not been watching it day by day.
18 What I can tell you is that what you will hear next month
19 with the financial analysis is a substantially expanded
20 scope from what he was originally asked to produce, which
21 was basically give us the principles and guidelines for
22 going forward.

23 He has been able to go back in and really do a
24 pretty detailed financial analysis of those two sites,
25 which will give us a lot more specific guidance than he

1 would have had before.

2 Why we didn't have a better interim report a few
3 months ago, I'm afraid I can't give you an answer for that,
4 although I will find out and let you know. But what I can
5 tell you is that what you'll get next month is
6 substantially more detailed, and therefore I think a lot
7 more helpful in moving forward in a concrete manner than
8 what you would have had based on the original scope. There
9 was no cost increase in that. He was able to increase the
10 scope without additional cost to the agency.

11 MR. FELDMEIER: I appreciate that response. Now,
12 as it relates to the principles for inclusion and other
13 parts of this report to us, when we had the discussion in
14 the past about our concerns -- our legitimate concerns that
15 folks like the truck stop operators would put out an
16 all-points bulletin with us in the target. You know, I
17 know at least I did, and I remember Bob speaking too about
18 our general concern that we're talking about them as if
19 they are the enemy, and they are talking about us as if we
20 are the enemy, when they really ought to be our ally, not
21 our enemy and vice versa. I'm not interested in trying to
22 compete with them. I'm interested in trying to work with
23 them. And if there's a way in which we can coordinate our
24 rest areas with their already-constructed truck stops
25 across this state, we ought to be talking about that so

1 we're not building brand-new facilities like the ones that
2 have been targeted here.

3 I specifically mentioned that when we talked
4 about this in the past. I'm not sure that these are the
5 right examples, number one, but they could be. That's
6 okay. But I want to concentrate on what's already out
7 there within the public sector -- within the private sector
8 along the stretches of the interstate, that we might be
9 able to utilize those places instead of constructing new
10 ones or rebuilding ones along our interstates that are in
11 collapse, for which we are having to shell out millions of
12 dollars every year to maintain, to speak nothing of what it
13 cost to start from scratch where we'd build one.

14 I want to make sure that when he brings us this
15 report back we are going to be talking about that too.
16 Otherwise one of the main components for which I was
17 interested in better than 15 months that brought us to that
18 15 months ago has not been addressed. So if you can please
19 make sure that that is a part of his report, you know, at
20 least part of my life will be happy.

21 MS. LEWIS: Mr. Feldmeire and Mr. Chairman, I
22 very much want to make you happy, so I will certainly do
23 that. I can tell you that the reason these two sites were
24 selected was in part because they are areas that are primed
25 for private development anyway and provide an opportunity

1 to start out from the very beginning with new facilities.
2 Not to take away from what you've requested, but there was
3 a pretty strong feeling that being able to start out with
4 new development provided the maximum opportunity for an
5 initial partnership.

6 But I do believe that the question you're asking,
7 which is how can we go back and partner with existing
8 operators, is a very valid question, and I know that that
9 is part of his analysis that will be addressed.

10 MR. FELDMER: I think that point is important
11 that you've just mentioned, that we have an opportunity
12 here. I would like to view it as that as well. But just
13 as an example, this one, Juniper Mountain, which is -- I
14 don't know -- 20, 30, 40 miles west of Seligman, I had the
15 occasion to spend more time than most people do in Seligman
16 last summer. And on numerous occasions just before I got
17 on the interstate at the interchange at Seligman there,
18 there's a private party that has a truck stop per se. And
19 he's the de facto rest stop for the truckers on I-40 in
20 that region, and he's doing real well. I don't know
21 whether he's selling spaces for those trucks to actually
22 spend the night, but the components of his business there,
23 in addition to where he allows them to park, are doing real
24 well. I kept thinking, Why can't we utilize that and
25 improve the facilities and still do the same thing? That's

1 the basis for the other comments.

2 MS. LEWIS: That will be addressed. Those
3 opportunities will also be addressed by the consultant.

4 CHAIRMAN SCHORR: Any further questions or
5 comments?

6 Thank you.

7 Let's then move on to Item 7, which is the
8 Governor's growth scorecard. Shannon will be presenting.

9 MS. SCUTARI: Thank you, Mr. Chairman, members of
10 the State Transportation Board.

11 I recommend that we just adjourn and all go call
12 our brokers and invest in municipal bonds as per John's
13 presentation.

14 I accept your comments about John's brilliance.
15 He's really done amazing things for ADOT, and obviously
16 that was the most clear and well-spoken report that I've
17 gotten, even from the New York Times.

18 Thank you very much for having me here today. I
19 want to go over and give you a general overview of one of
20 the Governor's highest priorities.

21 Basically you're very involved in this because
22 you will see yourselves in this presentation, and this is
23 one of the Best Practices actually. The things I'm going
24 to talk about today are going to be a lead-in to basically
25 a presentation you're going to get from Patrick Cunningham,

1 who is a really important member of the Governor's Growth
2 Cabinet, and you're all familiar with the Governor's Growth
3 Cabinet. We all have had individual conversations about
4 the Governor's creation of the Growth Cabinet.

5 Patrick is one of the chairmen -- chairpersons of
6 the Growth Cabinet Scorecard Subcommittee, so he's going to
7 actually give you some specifics about really a cornerstone
8 of the Governor's Smart Growth plan for Arizona, which is
9 the scorecard. I'm going to give you a little background
10 to lead into that.

11 But just to refresh your memory a little bit,
12 Patrick is from DEQ as the deputy director. The Growth
13 Cabinet itself is made of 15 cabinet agencies at the State,
14 and their mission is needing solid but heavy-hitters from
15 the cabinet agencies, the State Land, Department of
16 Transportation, Department of Housing, Department of
17 Commerce, Game and Fish, State Parks, Department of
18 Environmental Quality, the Department of Water Resources.

19 And under executive order, a couple of years ago
20 the Governor formalized the Growth Cabinet, and basically
21 the bottom line was, she said, Growth Cabinet agencies, put
22 aside your silos, put aside your agency jurisdictional
23 territorial issues and work together to address Arizona's
24 growth issues and work across agency boundaries so that we
25 can have the State working better, more efficiently and

1 more effectively together, to actually be proactive on
2 growth issues in Arizona.

3 It was actually right on the heels of when
4 Arizona became the fastest growing state in the nation, so
5 very timely but had been really informally running for
6 about a year when the Governor put a real stamp of approval
7 and formalized it within an executive order.

8 This set of quotes kind of sums it up, so I'm
9 going to read it to you. It's really her words, but it's
10 based on -- as you know, this is a governor that doesn't
11 stay put very long. So she's been traveling throughout the
12 state, and these are the things she's heard from folks:

13 "As I traveled Arizona I have heard from thousands of you
14 expressing the same message, The way we grow has to change.
15 You live, work and educate your children in communities
16 that are growing so rapidly they do not have the necessary
17 infrastructure to create the quality of life that you
18 demand and that you expected when you made Arizona your
19 home."

20 I don't have to tell you as members of the State
21 Transportation Board that when we have development
22 decisions for communities that are created that really
23 aren't communities, that aren't planned well, that don't
24 have the necessary infrastructure, the very first place
25 folks come asking for assistance with their infrastructure

1 needs is to the State. You hear it all the time.

2 You are the ones that have to deal from the back
3 end with folks' bad decision-making on the front end. This
4 effort, because it's such a huge priority for the Governor,
5 involves all infrastructure, not just transportation. You
6 deal with that every single day. But there's Water, the
7 Schools Facility Board as part of the Growth Cabinet. The
8 Department of Health Services is part of the Growth
9 Cabinet. The Department of Economic Security. All of
10 these things make communities, not just dwelling units.

11 So like I mentioned, we have always, for the last
12 five years at least, been one of the fastest growing states
13 in the nation. The Governor's commitment was that this
14 requires a comprehensive approach to growing a sustainable
15 way. Sustainable -- we hear this all the time. It's a big
16 buzz word -- what it means is will this be around, will it
17 be a viable community as we're dealing with right now
18 hundreds of foreclosure signs in the front yard? Will it
19 be that way 5 years, 10 years, 20 years, 30 years from now?

20 To us that's what sustainability means, because
21 the things that have gotten us, from the perspective of the
22 State, in the situation we're in is that the focus was not
23 so much on, Are we doing this comprehensively? Have we
24 done this holistically? Are we sustainable? The focus was
25 on other factors.

1 So how do we do that? We need to craft
2 connections between housing, transportation and jobs in
3 ways that value open space, protect wildlife and other
4 natural resources. It's all part of making things livable.

5 We've seen this map. We know one of the
6 Governor's real favorite quotes, to sum all this up, is
7 "We've done a pretty good job accommodating the first
8 6 million people to Arizona. What will we do to welcome
9 the next 6 million people?"

10 This is our map from 2005. You've heard it.
11 You've seen it. This is what we expect in 2050. The red
12 obviously shows where we expect the growth. You can see
13 the Sun Corridor from this area here, northern Cochise
14 County all the way up into Mr. Feldmeire and close to
15 Montoya's area up in northern Arizona, Yavapai, and then
16 the edge of Coconino County.

17 So this is not new. These things have been
18 around for a really long time. We've been talking about
19 them. We've been passing laws about them all the way back
20 into 1974 when Arizona passed the Urban and Environmental
21 Management Act, and then we had Growing Smarter in 1998 and
22 Growing Smarter Plus in 2000.

23 The pieces that are missing from this legislation
24 and these statutes, however -- I remember lobbying -- I was
25 a lobbyist for a city at the time, actually the City of

1 Tempe that was very focused on very different things,
2 wanting very different types of things in the way we grow,
3 including a legislation, and frankly was rebuffed for a lot
4 of reasons.

5 But one of the things that we found is that
6 Growing Smarter, Growing Smarter Plus do not have the
7 necessary teeth in them to create the performance
8 measurements to -- yes, they are great starts. They
9 basically allow and actually mandate the creation of a
10 comprehensive plan at the local and county level and that
11 those plans are voter-approved. But they are no -- and I
12 know you're familiar here in the ADOT world, you're
13 familiar with performance measurements. They don't require
14 that those actually be implemented.

15 So the scorecard is the way to actually have --
16 again, the responsibility that the State's going to have on
17 the back end if these things aren't done well to have the
18 State involved in putting performance measurements and
19 indicators on implementing some of the really fantastic
20 things that are in general plans.

21 So the Smart Growth principles, I'm just going to
22 cover them because they are in the scorecard itself. You
23 have the scorecard in your packet, and my understanding is
24 that you have had that for about a week to be able to
25 digest it.

1 There's 50 different questions. Again, I have
2 met with each of you as well, so you have had this
3 individually. You know this has been going on for the last
4 couple of years.

5 Basically the ten principles for Smart Growth,
6 pretty simple: Encourage regional and community and
7 stakeholders collaboration, mix land uses, adopt compact
8 building patterns and efficient infrastructure design,
9 create a range of housing options, opportunities and
10 choices.

11 Now, again, we see with our demographic changes
12 with the age of the baby-boomer population, as well as
13 generation Yers and our younger generation Xers, they have
14 different types of housing needs. That's one of the things
15 that sometimes building the same old thing doesn't give us
16 the balance, also the economic development with the jobs
17 associated in the communities, not just the rooftops.

18 Creating walkable neighborhoods, foster
19 distinctive and attractive communities with a strong sense
20 of place. Places where corporations actually want to
21 locate. They want to bring their corporate headquarters
22 because they have a sense of place, attracting that
23 creative plus.

24 Preserving open space, farmland, natural beauty
25 and critical environmental areas, and directing development

1 towards existing communities, because you know the cost of
2 building a transportation infrastructure to the communities
3 that started out without any transportation infrastructure,
4 very high cost for the State.

5 Just some Best Practices. These are in your
6 districts and in your areas, and actually the framework
7 studies -- the statewide framework studies that you
8 authorized, with your approval about almost a little bit
9 over a year now, is really a bright light. It's not just a
10 bright light for Arizona; it's a bright light for the
11 country.

12 It's the first time we in Arizona and a lot of
13 states have actually connected transportation to land use
14 and to economic development. Very important. So that's a
15 real tribute to the effort of this Board to be progressive
16 in that way.

17 Best Practices for the open space preservation
18 side, Pima County Sonoran Desert Conservation Plan. It's a
19 long-term vision. I'm sure Mr. Schorr is very familiar
20 with this.

21 Transfer of development rights ordinances.

22 Again, Coconino County, these are open space
23 preservation Best Practices, the Diablo Canyon rural
24 planning area. Again, a lot of stakeholders, a lot of
25 different folks coming together to understand how will they

1 grow, how they want their area to grow.

2 The City of Flagstaff doing traditional
3 neighborhood design.

4 The City of Phoenix working on farm-based codes
5 in a mindful proactive way to work on development. And the
6 transit-oriented development design along with light-rail
7 line extending from Mesa to the east all the way up and
8 through the semi-northern portion of Phoenix, and at some
9 point with an extension up through Glendale and then
10 potentially up to the tip of Peoria.

11 Housing examples, Best Practices, Curley School
12 Artesian Lofts in Ajo. An artist group that worked
13 together to get the right kind of work and housing units
14 for the artists to thrive.

15 So basically the Governor in her executive order
16 created the Growth Cabinet, helped to actually be a
17 catalyst to allow these efforts and to support these
18 efforts because on the front end if they're done well, then
19 on the back end the State has less pain and for a lot of
20 other reasons as well besides that.

21 But we also created the Smart Growth and
22 Development Implementation Plan. The scorecard is a
23 cornerstone of that, and Patrick will go through that with
24 you.

25 But the real key for the scorecard is one of the

1 things that you're going to need to help us make a decision
2 on, which is how far do we go in connecting State
3 discretionary funding to the indicators and the performance
4 measurements that actually put some teeth into Growing
5 Smarter and Growing Smarter Plus?

6 So if you have any questions for me, I'm willing
7 to take them now or after Patrick presents, but this is his
8 turn.

9 CHAIRMAN SCHORR: Are there any questions of
10 Shannon?

11 MR. CUNNINGHAM: Mr. Chairman, members of the
12 Board, it's a pleasure to be here.

13 I'm Patrick Cunningham, director of DEQ, and any
14 Board that has the guts to give a laser pen to Shannon
15 Scutari has my respect immediately. So I'll cruise through
16 myself, and then if we do indeed invite your questions,
17 I'll talk about how the scorecard works, cover some slides
18 with you and then specifically ask you to approve the
19 recommendation that you have in front of you about how DOT
20 will implement the scorecard and discretionary spending and
21 planning that we worked with the DOT staff to develop. And
22 we have had an excellent working relation with them. I
23 want to thank them for their efforts. So let's cruise
24 through how this works.

25 First of all, the basics. What is a scorecard?

1 A scorecard is a community assessment tool to prepare for
2 growth. It is a self-assessment done by the community in
3 question, meaning a city, a county. A tribe could also do
4 it, and we have some tribes that are interested in doing
5 the scorecard.

6 These are self-assessments because we want that
7 growth planning to be done at that local level. That's
8 exactly how the growth -- Growing Smarter statutes work,
9 and frankly that's the culture in Arizona. I think all of
10 us have been to town halls on growth or the environment and
11 haven't been to one where it wasn't repeated time and time
12 again that local control and local planning for that
13 character is absolutely crucial, and that's what we are
14 implementing in the scorecard.

15 As an example of that, I will just tell you the
16 planning in Kingman, my hometown, is going to be different
17 than the planning in Safford or the planning in Flagstaff,
18 and we want this to be a self-assessment tool at the local
19 level.

20 We keep score to stay on track because of the
21 point that Shannon made, that for many of the growth
22 numbers there's not any kind of measure or indicator for a
23 city councilman, a mayor, a board of supervisors to get a
24 hold on. They know their response times for their police
() 25 and fire officials, and they know them very well. They

1 know their budget indicators very well, but on growth
2 there's so many things happening at the same time it's hard
3 to keep a handle on it. This will help them keep score.

4 We encourage best local and regional planning
5 practices, and as you will see -- if you reviewed the
6 materials already you've already seen -- that we push
7 regional planning as much as we can. And I know you on the
8 Transportation Board understand that frankly better than
9 anybody else, that regions must plan together. That's what
10 the Growing Smarter statutes require, so we're trying to
11 emulate those statutes and implement those statutes.

12 And finally it's an incentive-based tool. If
13 communities go forward and use this scorecard, State funds
14 that are available from the Water Infrastructure Authority,
15 DEQ, Department of Transportation, Housing, all of the
16 funds that we can muster in these difficult times in our
17 regular grant loan and approval programs, grants, loans,
18 approvals, anything the State does where we have
19 discretion, if a community is trying hard filling out a
20 scorecard, submitting it, they're going to get the benefit
21 of that.

22 And if they are filling it out and should they
23 need technical assistance, we provide technical assistance
24 for those communities who are not doing as well as others,
25 because you all know, and this Board especially, there are

1 communities who are preparing for growth and there are
2 communities who are trying hard but not yet there.

3 So the customer assistance or technical
4 assistance that our agencies provide, all of our Growth
5 Cabinet agencies that Shannon listed and all other agencies
6 are absolutely a crucial part of this because we have to
7 provide that technical assistance.

8 How do we provide these incentives? People,
9 cities, counties who fill out a growth scorecard will get
10 additional consideration in our State grant programs. We
11 have different models for small, medium and large. We
12 don't expect Kingman to score in the same way that Tempe
13 does. There's a completely different set of resources
14 there. So we have a small, medium and large scorecard, and
15 we use the population breaks right out of the Growing
16 Smarter statutes, because the legislature has set out for
17 counties and cities who is small, medium and large, and we
18 use those statutory criteria.

19 Assistance is offered for those who are
20 transitioning, and you will see at the end of our slide
21 show, and every one we do, we provide the contact
22 information for the office of Smart Growth in Commerce.
23 There are planners there, and there is technical assistance
24 going on right now for Smart Growth even though the
25 scorecard is not yet final.

1 To give you an idea of our small, medium and
2 large, when we talk to city councils and when we talk to
3 boards of supervisors they all want to know what category
4 are they in. The Growing Smarter statute has been around
5 for a long time, but still many of them are saying, Where
6 am I really? We give them precise examples, and when they
7 go on the web page of the Commerce Department, we link the
8 Commerce's demography information, all the population
9 statistics to Smart Growth so communities and citizens can
10 see where they are immediately.

11 Here's a good idea -- a little sampling of
12 counties and cities as to who is small and who's large.

13 Responsibilities and accountability and our
14 foundational concepts. Let me just go through some of the
15 basic foundations and tell you how we got these. These are
16 six concepts brought to us by the Growing Smarter Oversight
17 Council that did 18 public meetings in a collaborative
18 process throughout Arizona, met in every county and came up
19 with six good principles that implemented the Growing
20 Smarter statutes.

21 So we have, first, responsibility and
22 accountability, and these are sections in the scorecard.
23 So you see we have questions for each of these or
24 indicators for each of these.

25 Responsibility and accountability, I won't read

1 it all to you. It's right in front of you there. But
2 regional planning and public participation are big.

3 Preservation of community character. Community
4 vision, each community should be doing a community vision
5 so they know what they want to be, and there's a community
6 design. This is the part that was brought up to us as
7 we've been throughout Arizona. We've been to every county
8 and we've talked with many communities. They all say, We
9 want to make sure that we can grow how we want to grow, and
10 we're absolutely onboard with that. The scorecard is
11 designed in that fashion, so that preservation of community
12 character as that community decides it is one of our
13 principles.

14 Stewardship of natural resources. This is true
15 whether you are in rural Arizona where people say, We want
16 to preserve the ranching way of life, and we don't want
17 rows of condos, thank you, in this county. We are trying
18 to make sure that the scorecard implements that kind of
19 local control and allows them to express where they want to
20 be.

21 Forest health is obviously big for everybody
22 whose got a forest. And you'll find that wildland fire is
23 very big in Mohave County, because they don't want wildland
24 fires. And so we have a variety of natural resources we
25 want to protect in Arizona. It is, after all, what makes

1 us Arizona and brings those 200,000 or so people to Arizona
2 every year.

3 If you will recall last -- in the summer of 2007
4 we were not growing as much. We had about 193,000 new
5 people for the year ending July 2007. July 2006, you guys
6 know we were in the middle of a boom then. We had 223,000
7 people come to Arizona in the year ending July 2006.

8 If we were to get 200,000 people a year -- we're
9 probably not doing that now in these economic times -- we
10 will then double our population in about 32, 35 years.
11 That's where the Governor gets her quote of, "The first 6
12 million fit in here quite comfortably. Thank you. How are
13 we going to fit the next 6 million people in?"

14 Opportunity for broad choices. We try to make
15 sure that everything from housing to employment there are
16 opportunities and choices for our residents. That's one of
17 our principles.

18 Essential service infrastructure. You will see
19 transportation throughout our scorecard. We hope we have
20 worked with DOT staff and all the stakeholders to get
21 transportation in there, and I think that the DOT people
22 are pleased with those questions. If you have critiques on
23 those questions, we are all ears. It is still posted in
24 draft on the Commerce web page, and we are still
25 outreaching throughout Arizona this fall.

1 Economic development, very big, very big for
2 every agency, and some agencies you wouldn't think.
3 Department of Economic Security absolutely wants economic
4 development, and they have helped us fashion questions that
5 have everything to do with tracking wages to tracking what
6 kind of new businesses you're keeping and whether you're
7 working to keep your current businesses so we have a
8 vibrant economic development section.

9 So on the -- to give you an example, this is just
10 a piece of the scorecard. I'll give you a couple of
11 selected examples of questions so you'll get a feeling for
12 what we are asking.

13 In our opportunities for broad choices we've laid
14 out what we hope the goal is from the Growing Smarter
15 statute and from this visioning process with our 18 public
16 meetings.

17 Future planning and development should assure
18 availability of range of choices of housing, employment,
19 education, et cetera. That's the goal.

20 What is an indicator of that, you might say?
21 Here's an example of an indicator. This is the question:
22 Does your community track the balance of jobs, wages and
23 housing to inform policies and objectives? If you do it
24 regularly, in the first bullet, you would get three points.
25 If you link housing plans with economic development but you

1 don't have a specifically developed policy, you would score
2 two points. And finally, if you're studying how to link
3 housing and you're working on the problem, you would get
4 one point.

5 These are the kind of indicator questions that
6 we've fashioned. And we put points on them because when
7 people keep score, they then keep track.

8 And we've taken a lot of abuse from the public
9 planner saying, You're giving everybody one point on every
10 question. What if they're doing absolutely nothing? And
11 we've answered, This is an incentive-based self-assessment
12 tool. This is not the SAT test. We are trying to get
13 people to think about these issues. And if they are just
14 beginning the process they get a point. It's a
15 self-assessment tool to begin to keep track of how well
16 we're doing on Smart Growth. So this is an example of how
17 the questions will work.

18 Here's another one. Does your community have
19 zoning allowed for mixed uses especially in designated
20 growth areas? The zoning allows for mixed uses, number of
21 locations. We have a downtown focus growth area. The
22 second answer would be: Mixed land uses are allowed, but
23 in limited zones. Finally, We're developing provisions in
24 our zoning code. So again, you get three, two and one.

25 Some cities and counties will score wonderfully

1 on these questions. Some will not. And you'll find that
2 the mayors know exactly who they are. The mayors have said
3 to us, You're going to check these, aren't you? Because
4 I'm worried that City B will give themselves a three, and
5 we all know that they deserve a one.

6 We thought the planners will take the task of
7 trust but verify, and that's the concept we're using, trust
8 but verify. I hope I'm not portraying my party
9 registration.

10 In any event, the value of this is people are
11 going to fill it out in the community. They're going to
12 send it in to Commerce, and we are going to have an
13 interagency team, people from the Smart Growth Council, and
14 we hope we're going to have some private sector
15 participation also to take a select sample of the questions
16 and do some verification so that we can look.

17 We are not checking everyone's paper. We are not
18 checking all 50 questions, but we'll do some verification
19 of this. And the reason for that is stakeholders have
20 demanded it. It's not just the mayors from the cities.
21 The board of supervisors, the local developers who are
22 working in the community, folks who are in county and city
23 agencies, they've all said, You've got to verify these.
24 You must have some select group at random or a couple of
25 questions that you verify every time.

1 So we will be doing some grading of this, and our
2 people will be calling the city or the county back and say,
3 Say, we understand you gave yourself a three on this
4 question, that you have done an analysis of the jobs, wages
5 and housing balance, and we'd like to know exactly where
6 that is because we've trolled your website and we can't
7 find that.

8 So just to give you a good example, when we went
9 out and talked to folks we happened to pick Casa Grande.
10 So we went and talked to Casa Grande, because Pinal County
11 is obviously booming. Casa Grande knows their jobs,
12 housing balance like the back of their hand, and they've
13 studied it not just last year but for a decade, because
14 Casa Grande has always wanted to have jobs there and not be
15 a bedroom community for people on I-10 going to Tucson or
16 Phoenix. They can tell you the percentage of people who
17 commute to work to Phoenix and the percentage of people who
18 work in their area. They've got this nailed, and there are
19 many communities that have it nailed, many counties who
20 have it nailed. There are others who are not doing as
21 well.

22 We will be doing some checking, and we will be
23 allowing in the end that it will be a self-assessment tool
24 with a little verification.

25 One more question, and this one is, Does your

1 community's zoning allow for mixed uses especially in
2 designated areas?

3 I think I pushed the wrong button. There we go.

4 This is a little review of how we'll go through
5 the process, and we have been out in the community since
6 2006, and we rolled out drafts of the scorecard in 2007.
7 We've been now to the League twice for two summers in a
8 row. We've been to the rural development conference.
9 We've been to virtually every planning entity that we can
10 go to. Of course we've been to the Board of Supervisors.
11 The Governor has talked about this in the mayor summit for
12 growth. She talked about it for two summits in a row.

13 So we have been talking to folks throughout the
14 communities, and we have been just going to some
15 communities, and we picked ten at the beginning. The
16 Governor wanted us to go out and see counties and cities.
17 So we picked ten that were representative, some small, some
18 large, some who were on the cutting edge of growth
19 preparation and some who were not yet on the cutting edge
20 of growth preparation.

21 So we've been working internally to perfect our
22 50 questions. We have it up on the web page now for
23 comments. We had an official public comment period this
24 last winter, from January through March, in which we took
25 lots of official comments, and we're still taking them.

1 We've met with developers just within the last
2 month because there's three different companies who really
3 cared about this. They did a lot of work, and we met with
4 them to chat about the questions. They had some good
5 questions and they had some good proposals, so we made a
6 lot of their changes. And as Mr. Zubia will know, we
7 didn't make all of their changes, but we've made a lot of
8 them, and we really do appreciate the input.

9 We're shooting for a rollout in January 2009, and
10 this is the card that I wanted to show you so you know that
11 every time we go, whether it's talking to Realtors or
12 whether we are talking to planners in Bullhead City --
13 because I'm from Kingman, I went to the Tri-city Council
14 meeting up in Bullhead City, and Kingman, Havasu and
15 Bullhead went through this with a fine-tooth comb. We
16 always provide this information so people can call and get
17 assistance now, and we've done that.

18 Now, what are we asking you to do today? You'll
19 see you have a wonderful cover memo in your packet that
20 lays out how we are proposing the Department of
21 Transportation integrate this scorecard into discretionary
22 spending and discretionary -- that includes loan programs,
23 grant programs and funding of transportation projects, the
24 guts of frankly what you do here, Mr. Chairman and members
25 of the Board.

1 What we're providing to you today was worked out
2 with the staff at DOT. We really appreciate all of their
3 efforts because they -- obviously it's a huge program.
4 They understand how the scorecard works, and they try to
5 integrate it where they could, and you'll see in Paragraphs
6 A through F our precise recommendations.

7 So Mr. Chairman and members, what we're asking
8 you to do today is approve these recommendations, and I'll
9 hit two high points, and of course we love to have your
10 questions whether they are for staff or for us.

11 We recommend you approve this because we think
12 we're integrating the scorecard in a very simple,
13 straightforward fashion into funding decisions made by DOT
14 and by this Board.

15 First, we are requiring in this recommendation
16 that communities will fill out the scorecard and submit it,
17 but we are not suggesting that the score on the scorecard
18 change their priority. You have tons of projects out
19 there. You've heard from the very first speaker this
20 morning talking about the GAP issue, and since I drive to
21 Kingman every month, I can tell you the GAP issue is
22 important, but you have all kinds of funding decisions that
23 are very difficult.

24 What we are suggesting here is that the
25 applicants will fill out the scorecard and send it in.

1 They'll do it all electronically. It will be on the web
2 page, but you do not change the priority based on how well
3 they score. And that's because if you look at Paragraph D,
4 Priority programming will include Smart Growth planning as
5 part of the overall criteria for prioritizing projects.
6 You are already considering Smart Growth principles in the
7 work you do and so is the Department of Transportation
8 staff. Everything you get on every one of these projects
9 has gone through a planning process that is frankly far
10 better than most cities and counties are able to do. And
11 you've got professional planners and you have folks who are
12 going through these ideas with a fine-tooth comb. You're
13 already working to implement Smart Growth planning through
14 that process.

15 So we think this recommendation makes sense for
16 two very fundamental reasons: It will provide an incentive
17 for communities to fill out the scorecard. And Number 2,
18 when that scorecard is filled out, those local
19 decision-makers in the counties and cities will have some
20 idea how they stand on growth planning. And they can then
21 take the efforts they need to at the local level make
22 improvements.

23 So we think it is a great incentive-based tool
24 not because I've spent 18 months of my life doing it, but
25 because we think it takes the fundamental principles of

1 Growing Smarter, the fundamental culture of Arizona, which
2 is local control and local decision-making, and it
3 implements it into an incentive-based plan to pass out
4 money based on people who will indeed engage in Smart
5 Growth.

6 Mr. Chairman and members, of course I'll be happy
7 to answer questions, and I'll give all the hard ones to my
8 friend Shannon.

9 CHAIRMAN SCHORR: Are there any questions or
10 comments?

11 MR. FLORES: Mr. Chairman, if staff could address
12 how this affects the applications that need to be updated,
13 will those folks that typically apply for grants or loans?
14 I mean, is there a period in which time they will be given
15 notice that this information has to be computed if we do in
16 fact adopt this recommendation? Could someone --
17 Mr. Chairman, can someone from staff --

18 CHAIRMAN SCHORR: Richard, could you respond?

19 MR. TRAVIS: Actually I think I'll ask Rakesh to
20 answer that.

21 MR. TRIPATHI: Mr. Chairman, members of the
22 Board, first of all, as the Deputy Director here mentioned,
23 most of these issues we are already taking care of it.
24 They're just calling it by a different name. For example,
25 many months you have been discussing access management.

1 Access management is nothing but one of the premiere Smart
2 Growth principles. It's when you don't have enough money
3 to add a lane or you don't have enough money to do a lot of
4 retrofit, you go back and maximize the capacity of the
5 existing infrastructures. So we're already looking at all
6 of those things.

7 One of the things that is very -- that I've
8 impressed on the group, was that Smart Growth scores be not
9 used to pick winners and losers in this thing, but make it
10 more incentive-based where if you have filled in the Smart
11 Growth scorecard and you're putting that extra effort into
12 examining your community, I think we should encourage that,
13 because I've got a vested interest as your planning
14 director in this issue, and that is, that when you talk
15 about tracking -- keeping a score, I'm thinking data.

16 One of my biggest concerns in the state has been
17 that I'm not too happy with the kind of data and the
18 databases that we have, trying to understand what's going
19 on. I think this will help our locals and our planning
20 agencies and our cities and counties to hopefully through
21 this process keep a tab on those data that will help us
22 when we embark on statewide travel-demand modeling and
23 analysis to provide you with better decision tools to make
24 those important decisions on alternatives and corridor
25 development and projects and such.

1 So I think it is an extremely worthy goal, as I
2 mentioned last month when I gave you the frameworks update,
3 that this is a very innovative way of doing planning, and I
4 think the Board has to be extremely proud that they are
5 taking a lead in the country.

6 A lot of this sounds like a lot googly gook, and
7 this is -- and a lot of this sounds very high-minded and
8 big things that are not grounded. But if you look at what
9 you're doing on a daily basis, you may not be calling it by
10 that name, but you are involved in Smart Growth in every
11 decision that you make.

12 So my recommendation would be that you approve
13 this, and let's make this a formal process. And I think
14 it's time that we took lead in the nation to connect land
15 use, smart growth and transportation.

16 MR. CUNNINGHAM: Mr. Chairman, Mr. Flores, I
17 wonder if I can just take a shot at answering your question
18 also. Just as other agencies do it, just to give you one
19 example, Water Infrastructure Finance Authority, the way
20 they give notice, which I think is one of your -- I think a
21 pertinent part of your question is once the Board approved
22 the policy, then the staff got into action and notified
23 people in those grant programs that needed to submit it.
24 They made it a program requirement and gave them express
25 notice of that, so the applicant would absolutely know they

1 need to submit it.

2 That's how other agencies have handled it, but
3 they didn't want to get the cart before the horse and ask
4 for Board approval first.

5 MR. FLORES: Mr. Chairman.

6 CHAIRMAN SCHORR: Yes.

7 MR. FLORES: I move for approval. I don't know
8 if there needs to be any further questions. I move that we
9 approve the recommendation.

10 CHAIRMAN SCHORR: Before we do that, I have a
11 question. How many local jurisdictions or how many
12 jurisdictions within the state have been asked to
13 participate in the Smart Growth scorecard process?

14 MR. CUNNINGHAM: Mr. Chairman, members of the
15 Board, we have asked all of the cities and all of the
16 counties to participate. So what we've done is we've gone
17 to the League. We've gone to the County Supervisors
18 Association, and we've done outreach in each of the
19 counties because we'd like them all to participate. Of
20 course, you don't know exactly how many will participate,
21 and many of them have said, We're going to take advantage
22 of our technical assistance and use Commerce to assist them
23 in filling out the scorecard. So they've all been asked,
24 Mr. Chairman. In the end it is a self-assessment tool.

25 CHAIRMAN SCHORR: Let me ask you this: How many

1 jurisdictions have been asked by number?

2 MR. CUNNINGHAM: By looking at the categories,
3 you'd probably say 15 counties, of course, and then the
4 cities -- the cities that are included in the sweep of the
5 Growing Smarter statutes, you probably have about 45
6 cities.

7 CHAIRMAN SCHORR: Of the 15 counties and 40, 45
8 cities and towns, how many of them have agreed?

9 MR. CUNNINGHAM: Mr. Chairman, members of the
10 Board, when the scorecard gets rolled out later in the fall
11 and is final, they will then begin submitting it in
12 January.

13 So we haven't asked for a formal agreement
14 process. We've simply said, We're going to make this
15 available and we'd like everyone to send it in. So we
16 don't -- we will expect in January or February or March we
17 will have a ton of them that we'll have to look at and work
18 with.

19 CHAIRMAN SCHORR: Do you anticipate that there
20 will be any reluctant counties or cities or towns?

21 MR. CUNNINGHAM: Mr. Chairman, members of the
22 Board, we have met with those who have had reluctance and
23 have asked us to come and chat with them and work through
24 their issues. In the end it will be a local decision, so
25 in our outreach with them we found that once we explained

1 the questions and explained -- frankly, when their planners
2 then explained the questions to the elected officials and
3 how they will answer and how they had input into fashioning
4 the questions, we will overcome that reluctance. Of course
5 it is a voluntary program. We don't know until we open the
6 floodgates, so to speak.

7 MR. FLORES: Mr. Chairman, point of order, I did
8 make a motion. Did we not need a second to continue?

9 CHAIRMAN SCHORR: Can you repeat your motion?

10 MR. FLORES: My motion is to accept the
11 recommendation for ADOT to adopt A through F items on the
12 letter that is submitted -- that's dated October 2nd, 2008.

13 CHAIRMAN SCHORR: In other words -- if I may add
14 on to that. In other words, the motion is to tie
15 discretionary funding into the scorecard process along the
16 lines described in Items A through F.

17 The motion has been made by Mr. Flores.

18 MR. HOUSEHOLDER: Second.

19 CHAIRMAN SCHORR: Seconded by Mr. Householder.

20 Questions? Discussion?

21 MR. ZUBIA: Victor, did you want her to follow up
22 on responding to your question before --

23 MR. FLORES: No.

24 MS. SCUTARI: I'm not sure about the point of
25 order here, but Mr. Chairman, members of the State

1 Transportation Board, I just wanted to respond specifically
2 to some of the maybe -- how much jurisdiction do you really
3 have in imposing the scorecards since it is a voluntary
4 program. This is not legislatively mandated.

5 We are following the direction of the Governor's
6 executive order, actually several executive orders. One is
7 specific that's geared exactly to connecting State
8 discretionary funding to the scorecard document.

9 That specific executive order is what we have the
10 authorization to proceed under with all the cabinet
11 agencies. So we've done the same inventory that we're
12 doing with ADOT with all the other cabinet agencies in
13 response and under the direction of the Governor's
14 executive order, and she highlighted that in her 2007 State
15 of the State as well.

16 CHAIRMAN SCHORR: Thank you.

17 MR. ZUBIA: That actually kind of segues right
18 into one of my questions, which has to do with the
19 long-term implications. We all know that the Governor's in
20 her last two years of her last term. When she'll be gone,
21 or it may be even sooner, but to the extent that we will
22 get a new governor at least in two years, how is any of
23 this Growing Smarter or scorecard going to stick around if
24 it isn't legislatively mandated?

25 MS. SCUTARI: Mr. Chairman, Mr. Zubia, these are

1 obviously excellent questions, and we get them all the
2 time. I get them many times a day over the last several
3 months in anticipation of the election.

4 One of the things that's been really, really
5 important is that this has become something that
6 communities all on their own are now owning. An executive
7 order will only serve the direction of the State agencies
8 as long as the governor that obviously introduces the
9 executive order is in office.

10 So under the Napolitano administration we will be
11 serving under these rules and regulations and direction.
12 If there is no commitment to follow specifically these
13 kinds of policies and procedures under a future
14 administration, they could go through every single one of
15 the agencies and significantly change some of the, I mean,
16 real institutionalization that we'd created over the last
17 several years in all the agencies. That is a possibility.

18 Obviously if the WIFA board's already made these
19 decisions, GODA has already made these decisions. Again,
20 if you make this decision today you will have made this
21 decision. Those folks can come back and ask you to undo
22 those decisions.

23 But the hope is that these are such good
24 intelligent ways of really keeping the state healthy for
25 the future financially as well as from a viability

1 standpoint. There's so much momentum being built from
2 outside to really support these things. We're getting all
3 these communities now that are saying, Just do this thing
4 because we want people to be aware of these things before
5 we get into the same situation that we've gotten ourselves
6 into recently.

7 So it would be up to a future administration to
8 specifically answer your question, but we like to think
9 that we've built that momentum and that it becomes
10 something that will live on.

11 CHAIRMAN SCHORR: Any further questions or
12 comments?

13 MR. ZUBIA: I've got a couple more, if everybody
14 will be a little bit patient. But shorter answers
15 certainly are in order. You answered my question in the
16 first couple of sentences.

17 But with that in mind, to the extent as we as a
18 Board kind of act on this, it's kind of woven into our
19 policy.

20 Another administration coming in, whether or not
21 they like it or not couldn't necessarily direct us to
22 change it. It would be up to us to change it. And in
23 fact, the only way it would be able to be modified, or at
24 least without our choice, is by legislation, I guess is the
25 way I understand it. A new governor comes in, pushes

1 legislation that says all that garbage needs to be taken
2 out -- and I'm kind of using a little license there -- that
3 would be the only way to kind of force us to take it out;
4 is that a fair assumption?

5 MS. SCUTARI: So your question? I'm sorry.
6 Mr. Chairman, Mr. Zubia, the question?

7 CHAIRMAN SCHORR: May I put it in a different
8 way?

9 MS. SCUTARI: Sure.

10 CHAIRMAN SCHORR: I think what Mr. Zubia is
11 saying, filtered through the mind and mouth of a lawyer,
12 is, absent legislation, the rule we will be adopting today
13 will be the rule of the ADOT Board unless a succeeding ADOT
14 Board overrules it.

15 MS. SCUTARI: Mr. Chairman, members of the State
16 Transportation Board, that is my understanding.

17 MR. FELDMEIER: So it will become part of the
18 Board's policies?

19 CHAIRMAN SCHORR: That's correct.

20 MR. ZUBIA: I for one support it. I would like
21 to request that the motioner and the seconder consider an
22 amendment to the motion, and that will be to add an
23 additional category by which the scorecard will be
24 required, and that is for request for acceleration. That
25 is a big part of what we do. It's a big part of what the

1 communities request. And in fact, I think the growth
2 scorecard should be a big factor in whether or not we
3 consider those requests positively or negatively.

4 CHAIRMAN SCHORR: So you request for acceleration
5 of funding?

6 MR. ZUBIA: Yes.

7 MR. TRIPATHI: Mr. Chairman, I would like to make
8 a comment if you would give me the permission.

9 CHAIRMAN SCHORR: Sure.

10 MR. TRIPATHI: As you know, the State
11 Transportation Board has the purview over our entire
12 program, and that is not just the greater Arizona but also
13 Maricopa County and Pima County.

14 The planning aspect of what we do, the project
15 selection aspect, we delegate as the State to the major
16 MPOs the project selection process as part of our
17 regionalization and emphasis on regions taking care of
18 their own future through Maricopa County and Pima County,
19 the PAGs and the MAGs, the major metropolitan areas and
20 also other metropolitan areas. Those with smaller MPOs and
21 COGs, we do provide them the assistance for them to take
22 care of their business.

23 I do want to let you know that I have not had
24 conversations about this change in the project selection
25 process with my MPO directors in MAG and PAG, but that does

1 not say that the Governor's Growth Cabinet has not done
2 that independently.

3 So what you're doing right now applies to the
4 entire program, not just greater Arizona. So I just wanted
5 to make that very clear, and also --

6 CHAIRMAN SCHORR: I think you've answered the
7 question.

8 MR. TRIPATHI: Thank you so much. I just wanted
9 to make that clear to you.

10 MR. ZUBIA: Which again, I would still recommend
11 that addition because, again, there's no requirement that
12 we accelerate any projects. And in fact, if someone wants
13 the consideration of that benefit, they should also be
14 thinking of the scorecard.

15 CHAIRMAN SCHORR: Thank you.

16 Is that friendly amendment, which I guess would
17 be Item G, we'll add as Item G, request for acceleration of
18 funding for the project?

19 MR. ZUBIA: Yes.

20 CHAIRMAN SCHORR: Is that amendment acceptable
21 for the maker of the motion?

22 MR. FLORES: Mr. Chairman, I will amend it.

23 I think it's implied -- if this is a voluntary
24 program, it's implied that whatever funding or whatever
25 submission towards discretionary funding will accrue, it

1 will be asked to provide -- or participate in the
2 scorecard.

3 If Mr. Zubia thinks it's important, I will amend
4 it.

5 MR. HOUSEHOLDER: Second.

6 CHAIRMAN SCHORR: Is that amendment acceptable to
7 you?

8 MR. ZUBIA: Yes.

9 CHAIRMAN SCHORR: You've heard the motion for the
10 friendly amendment. Is there any further discussion?

11 Counsel, this better be a good one.

12 MR. ACOSTA: Thank you, Mr. Chairman. Joe
13 Acosta, Jr. This is the assistant attorney general.

14 My understanding of the motion is that it seeks
15 to incorporate the October 7th, 2008, letter that is
16 reflected on Page 28 of your gray books. And what I want
17 to make sure that the Board understands is if the Board
18 adopts -- first, I would suggest that the language be read
19 into the record so that all the Board members and the
20 public understand what the action is and what is
21 incorporated and what is not.

22 For example, I'm not sure you're going to
23 incorporate all of the preamble to the --

24 CHAIRMAN SCHORR: Mr. Acosta, we have not. The
25 motion is specific. The motion is that the Board will

1 adopt as part of its rule-making, a tying in of
2 discretionary funding into the scorecard process in
3 accordance with the items set forth as A, B, C, D, E, F and
4 G, as the friendly amendment, as referenced in the
5 October 2nd, 2008, memo to the Board from
6 Mrs. Cunningham-Smith, et cetera.

7 MR. ACOSTA: All I would request is that A
8 through F be read into the record so that all the Board
9 members and the public are clear on what's being adopted.

10 The second statement I have to make is I want to
11 make sure that you understand that A through F appear to be
12 mandatory, and there's been some discussion about whether
13 the Board intends that the statements not be mandatory but
14 they'd be more in the nature of encouragement or direction
15 or requests.

16 So I would ask the Board to be careful here in
17 considering this, whether you actually want to consider
18 adopting A through F as they are written on the letter,
19 which are pretty mandatory, or whether there would be some
20 room here, or whether there would be some other discussion
21 about it.

22 CHAIRMAN SCHORR: As I understand from the
23 discussions we've had, what is mandatory is that the
24 applicants under these specific features would have to
25 complete the scorecard. What is discretionary is that they

1 do not necessarily have to be weighed in as a result of
2 making a final decision. That's my understanding. I trust
3 it's the Board's understanding as well.

4 MR. ACOSTA: Anyway, what I would suggest is that
5 the motion be reread and it would include a reading into
6 the record of A through F to the extent they are included
7 in the motion.

8 CHAIRMAN SCHORR: Bill, did you have a question?

9 MR. FELDMIEIER: I do, because I've heard this two
10 ways, and I want to make sure that I'm hearing it the way
11 that -- well, I want to make sure I hear it the way I think
12 I want to hear it.

13 If this is discretionary, it means that under A
14 through F anyone who makes application under any of these
15 criteria here must fill out this scorecard. They can fail
16 the scorecard. Failing the scorecard does not subject them
17 to defeat as a result of the application.

18 CHAIRMAN SCHORR: That's our understanding.

19 MS. SCUTARI: Mr. Chairman, members of the Board,
20 Mr. Feldmeire, correct. The submission itself is what
21 would be included for the programming and planning
22 decision-making.

23 MR. FELDMIEIER: Only the fact that they fill out
24 the scorecard. That's it.

25 MS. SCUTARI: Mr. Chairman, Mr. Feldmeier,

1 correct.

2 CHAIRMAN SCHORR: Shall we play ball?

3 MR. FELDMEIER: I can play now.

4 CHAIRMAN SCHORR: You've heard the motion and the
5 second. Counsel has recommended that we read Items A
6 through G. Who is going to be the designated reader? We
7 can take turns.

8 You can go first, Felipe. You have to read A
9 through G.

10 MR. ZUBIA: If I can ask Mary Currie, our Board
11 secretary, to do that, and I can probably recite G since
12 it's not part of the record.

13 MS. CURRIE: Mr. Chairman, members of the Board,
14 I will begin with A.

15 "Transportation enhancement will require that as
16 part of the application process the scorecard be completed
17 and submitted.

18 "B, local government projects earmarked and other
19 discretionary grants that come through ADOT will require
20 that the scorecard be completed and submitted prior to
21 ADOT's submission or support of the project.

22 "C, planning process will require that the
23 scorecard be completed before it accepts projects into the
24 five-year construction or long-range plan.

25 "D, priority programming will include Smart

1 Growth planning as part of the overall criteria for
2 prioritizing projects.

3 "E, loans to airports will require that scorecard
4 be completed.

5 "F, grants to airports will require that
6 scorecard be completed."

7 CHAIRMAN SCHORR: And G, Mr. Zubia.

8 MR. ZUBIA: Request for project acceleration
9 including highway expansion and extension loan programs.

10 CHAIRMAN SCHORR: Thank you. We've heard the
11 motion. We've heard the explication of the motion.

12 All in favor say "aye."

13 Any opposed?

14 So ordered.

15 We are going to take about a ten-minute break
16 right now.

17 (Recess was taken from 11:13 a.m. to 11:25 a.m.)

18 CHAIRMAN SCHORR: Our next item is Item 9, policy
19 guidance on project selection criteria.

20 MR. TRIPATHI: Chairman Schorr, honorable members
21 of the Board, Director Travis, I have a presentation, but
22 in the interest of time, I'm going to forgo it and just
23 give you the bottom line on this issue.

24 CHAIRMAN SCHORR: We appreciate that.

25 MR. TRIPATHI: In the June Board meeting we had a

1 discussion on the issue of local participation and leverage
2 in the project selection process. By that what I mean is
3 that if the local communities come to the Board with a big
4 percentage of the project cost, in tough economic times it
5 helps extend our dollars to implement those projects.

6 So I have gone around the state and talked to a
7 lot of the planning partners, and one of the issues that
8 came out was that this is a policy level position that
9 needs to be taken to the Board for the Board to give us a
10 clear direction as to how they would view leverage as a
11 project selection criteria. There are pros and cons, as
12 you can very well imagine.

13 The pro is that if the locals bring in extra
14 money to the table, it extends our money, and we're able to
15 implement projects sooner. And also a higher leverage from
16 the local communities also show us that it is a very
17 important project for the locals.

18 The cons are that there's a concern around the
19 communities that the communities that have money could then
20 have the opportunity to buy the program, so there's a plus
21 and minus to that issue.

22 So I'm here to get Board guidance as to, number
23 one, do you want leverage to be a consideration for the
24 project selection process; and number two, if so, my
25 suggestion would be that we use our formula of two points

1 for every five percent that the locals bring to the table
2 up to 50 percent of the local -- of the project cost. So I
3 would like your recommendation on that.

4 CHAIRMAN SCHORR: Any questions or comments?

5 I have one. I think this is a very important
6 subject, and what I would like to see, if we haven't
7 already done it, is a memo of pros and cons with the
8 proposed recommendation so that we could weigh it more
9 carefully. I think that may be a better way to address the
10 problem than try to do it on an ad hoc basis.

11 MR. TRIPATHI: Right. If you remember, in June I
12 had made a detailed presentation on project selection
13 criteria, and this was one of the issues that Member
14 Feldmeier had brought up as something that we need to look
15 at.

16 We'll be more than happy to bring to the Board at
17 the next meeting a detailed pros and cons. Actually,
18 there's only one, you know, con about it, and that is the
19 concern. But again, statewide we have noticed that we
20 don't have that many people knocking on our doors trying to
21 bring extra money to the table. Again, it's at your
22 pleasure.

23 CHAIRMAN SCHORR: Bill.

24 MR. FELDMEIER: Mr. Chairman, I've been talking
25 about the importance of partnerships we have for the length

1 of time I've been on the Board, and I've been familiar with
2 partnership arrangements ADOT has had with local
3 governments throughout the state for a couple of decades
4 I've been following this Board around. And I think that
5 it's important for us to reward people who want to
6 contribute into the projects that are State-owned projects.
7 We're not talking about local projects. We are talking
8 about accepting local money or private money, as the case
9 may be, maybe it's the combination of both, to accelerate
10 projects that are going to be on the State five-year plan.
11 Why wouldn't we want to bring them forward faster?

12 We need some mechanism to reward people who bring
13 us their money to do our projects. That's essentially what
14 it is. I'm ready to vote yes today.

15 CHAIRMAN SCHORR: Yes, on what, Mr. Feldmeier?

16 MR. FELDMEIER: Yes for yes. 101 yes.

17 CHAIRMAN SCHORR: What I'm suggesting is if at
18 the next meeting -- the pros and cons I think have been
19 fairly vented. What I'd like to see is some proposed
20 recommendation and perhaps more than one.

21 The type of recommendation you're making today
22 seems to be a little bit too formula-driven and may not be
23 sufficiently versatile to accommodate the contingencies.
24 So if it will be possible to come up with a few
25 recommendations that the Board can consider might be

1 useful. And if possible try to stick to the KISS
2 principle.

3 MR. TRIPATHI: If you'd indulge me, Mr. Chairman,
4 and that is, will it be possible for the Board to at least
5 give me the direction that leverage is something that you
6 want included into the selection process? And then I can
7 come to you with the mechanism. I think the issue is about
8 the mechanism and not -- but on policy kind of issue, and
9 that is something that the Board is looking at giving me
10 direction on.

11 CHAIRMAN SCHORR: I think the purport of
12 Mr. Feldmeire's motion, the yes motion, is that you do
13 that, is that you do come up at the next -- I think
14 Mr. Feldmeier's motion is that the Board is in favor of
15 pursuing the leverage and how to take advantage of it, and
16 for you to come up with some alternative means of
17 implementing that leverage.

18 Was that your motion?

19 MR. FELDMEIER: Yes. Thank you.

20 MR. HOUSEHOLDER: I second it.

21 CHAIRMAN SCHORR: Motion made and seconded.

22 Before I ask that, any further questions or
23 comments?

24 All in favor of the motion say "aye."

25 Thank you.

1 MR. TRIPATHI: Mr. Chairman, can I make one
2 request?

3 CHAIRMAN SCHORR: Sure.

4 MR. TRIPATHI: Before you go on, I have PPAC
5 items from 11 to 15, which are routine items. If you have
6 any specific question, I'll be more than happy to answer
7 them.

8 CHAIRMAN SCHORR: The notion is that we consider
9 Items 11 through 16 all in one motion.

10 MR. ZUBIA: Actually, Item 14, which asks for an
11 increase in funding for the statewide planning frameworks I
12 think probably will necessitate discussion.

13 CHAIRMAN SCHORR: Let's consider then all but
14 Item 14 in one motion.

15 Do I hear a motion in that regard?

16 MR. HOUSEHOLDER: So moved.

17 MR. ZUBIA: Seconded.

18 CHAIRMAN SCHORR: All in favor say "aye."

19 Let's go to Item 14.

20 MR. TRIPATHI: Item 14 is the statewide
21 transportation planning framework study to increase the
22 funding by \$3.5 million for Phase II, the additional work
23 on the scope of the study. This is to incorporate
24 additional work that we're looking at doing for the
25 statewide frameworks to make it more whole.

1 Basically right now in the previous phase we did
2 not have the rail frameworks scoped, and I think we will
3 miss a tremendous opportunity, especially when we are
4 looking at completing the State's long-range plan and
5 bringing it to you on July 1st, 2010, for adoption, not to
6 have looked at the rail infrastructure statewide.

7 Yes, we have looked at various corridors like
8 Phoenix to Tucson and others, but I think the State as a
9 whole, we have to look at transit a little bit more
10 holistically rather than one corridor or one small region.

11 And this is to -- we only get this opportunity
12 every five years. As you know, the long-range plan is
13 adopted by you every five years, and I think it will be a
14 tremendous mistake on our part not to cover those elements
15 and to have a comprehensive multimodal plan as you have
16 directed us to look at to begin with. I strongly recommend
17 to the Board that you approve this.

18 CHAIRMAN SCHORR: Any questions?

19 MR. ZUBIA: I've got a couple of questions. What
20 was the original amount that we approved for this project?

21 MR. TRIPATHI: \$7.5 million.

22 MR. ZUBIA: So we're asking for nearly half in
23 more funding without any further explanation as to where
24 we're at, where we're headed, any performance measurements.
25 This isn't necessarily something that you're directly

1 managing. We hired consultants. I think we need a lot
2 deeper discussion about where this plan is headed, where
3 it's been and how we can be assured it's going to be what
4 we need it to be when it's all said and done.

5 MR. TRIPATHI: Mr. Chairman and Mr. Zubia, I want
6 to let you know that as your planning director I am
7 directing the framework process, and it was me who scoped
8 this process for this additional scope.

9 The management consultant is there to manage
10 subconsultants, so the leadership of this process stays
11 with ADOT, and I am directing this process.

12 In terms of performance measures and where we
13 are, if you recall last Board meeting I provided you with a
14 comprehensive update on the frameworks process as to where
15 we were and how we were performing those tasks.

16 This is an absolutely new -- this is not -- let
17 me put it this way: We are not asking for additional money
18 because the last time the money that you gave to us was not
19 sufficient to do that particular scope. This is not a
20 scope creep from the Phase I that now we need extra money
21 to do this.

22 This is an addition. We're doing the rail
23 frameworks. We have done it in terms of highways and
24 certain transit elements, but we have really not done rail
25 frameworks, and I think that we will miss a tremendous

1 opportunity if we do not look at the rail as a solution.

2 And under my direction for the last two months we
3 have been working on the scope on what we would like to see
4 this rail frameworks to look like, and the budget that you
5 have in front of you has been developed through that
6 process. And it has no -- I can tell you for absolute
7 surety this is not a budget that was done by a consultant.
8 It was a budget done by me.

9 MR. ZUBIA: I have 100 percent confidence in your
10 abilities, past, present, future, in dealing with this.
11 But what you just said is this isn't an issue of scope.
12 This is a brand-new section of what we're trying to do.

13 MR. TRIPATHI: Absolutely.

14 MR. ZUBIA: That's not the way this is written,
15 and that's not the material that was presented. It says,
16 To increase the funding for additional work on the scope of
17 the study. That's different than what you've just told me.

18 Again, that's not a criticism. I agree with you
19 100 percent that needs to be done. But again, in order for
20 me as a Board member to evaluate, to make sure it in fact
21 addresses what I believe are the issues, again, as the
22 policy representative, I'd like to have a little bit more
23 information. I'd like to know how that all fits into the
24 overall project.

25 And as you know, I am deeply involved through

1 DQAZ and the ongoing meetings. But to tell you, quite
2 honestly, I'm a little bit concerned as to some of the
3 e-mails I've been getting lately on DQAZ and the public
4 participation process that's upcoming here.

5 I don't think the full Board has gotten any
6 information on any of that. It's something that I've been
7 talking about since we first awarded this project, and I
8 urged the Board to establish a subcommittee that this would
9 be an inclusive statewide process, and all of a sudden
10 we're trying to cram a bunch of meetings within 60 days on
11 what is currently a \$7 million project, soon to be a \$10.5
12 million project or \$11 million project, without really
13 knowing anything of what we're doing.

14 Frankly, in times like this when there's not
15 money to construct, I think our biggest role should be
16 planning. If there isn't funds today, we know we're still
17 going to have to deal with roads. We know we still have to
18 deal with construction. This is going to be a big part of
19 what we're doing here for the next 5, 10, 15, 20, 30 years.

20 MR. TRIPATHI: Mr. Zubia, Mr. Chairman, I totally
21 take your comments. One of the things that is driving the
22 timetable is also the fact that the State's long-range plan
23 has to be adopted by you by July 1st, 2010.

24 The frameworks process is nothing but a
25 preparation and an input to the State's long-range plan. I

1 think the last long-range plan we called it Move AZ. That
2 was adopted in December of 2004.

3 MR. ZUBIA: As you talk, if you don't mind, if I
4 can interject a couple of questions. So you're saying that
5 the DQAZ, the total of \$11 million is an input?

6 MR. TRIPATHI: Yes.

7 MR. ZUBIA: It's not necessarily meeting any sort
8 of Federal guidelines. It's not meeting any sort of plan
9 requirements in that regard then.

10 MR. TRIPATHI: No, I did not say that.

11 When you have DQAZ frameworks, the frameworks
12 process -- if you would give me a minute I'll explain it to
13 you.

14 Normally how the states have planned for
15 transportation infrastructure is that the CFO gives us a
16 revenue estimate, and we also get revenue estimates from
17 our Federal partners as to what are we looking at long
18 range, and then we plan for the money.

19 Through your leadership what you have done is you
20 have reversed the whole process. We are not planning for
21 money. We are planning for a vision, where you want
22 Arizona to be, the scenarios, those three scenarios. How
23 do you want Arizona to look like in 40, 50 years. So what
24 I'm saying is, what you're trying to do has no precedence
25 around the country.

1 Now, it kind of sounds a little bit lacking
2 discipline when you do that because you're looking at a big
3 variety of things. That's why through the critical needs
4 process you had 165-, \$70 billion of critical needs. When
5 someone looks at it, the first thing that comes to mind is,
6 You must be out of your mind. This is such a huge --
7 everything in the kitchen sink.

8 What we are looking at is planning for the vision
9 where Arizona needs to be, and then taking all of that
10 information and making a State long-range plan. And our
11 intent is to have the long-range plan a 40-year plan out of
12 which the first 20 years is cost constraint. That means
13 the first 20 years we'll put projects in it that are
14 funded, or we have some hope that there will be revenues
15 and funds to fund those projects.

16 The rest of the 20 years would be pretty much all
17 visionary things, maybe a lot of rail projects, a lot of
18 things that are not funded, but we have studied and put it
19 into it and use the long-range plan not just as a plan but
20 as a strategic document for the Board to go to the
21 legislature or to talk to policy-makers in terms of how
22 much is funded, how much is not funded, what is the gap.
23 If you use these funding tools how much you can expand your
24 program. If you use these particular scenarios how much
25 you can expand the program.

1 Up to now it was very passive. We have \$6 1/2
2 billion, we have \$6 1/2 billion worth of projects, and we
3 are just shuffling among ourselves and those projects. So
4 what I'm saying is that these things -- the frameworks
5 process is following the Federal process.

6 The Federal process is basically safety and all
7 the planning factors, and also we're looking at State's
8 performance measure in terms of the Arizona Revised Statute
9 that would be applied to the cost constraint part of the
10 long-range plan, but we are right now not there.

11 We are looking at the whole thing. We are
12 planning for the vision and then we are paring it down. So
13 I know it's a very different way that you have charted us
14 to look at these things which we have not done before, and
15 that's the reason why you get those e-mails because there
16 is a lack of understanding, because where you are and what
17 you're doing, there's no such big examples to learn from as
18 to what it is. There's a little bit of confusion when you
19 do big things and make big changes.

20 MR. ZUBIA: Again, getting back to the frameworks
21 as an input to the update to Move Arizona. If it's an
22 \$11 million input, what is Move Arizona going to be as far
23 as the cost is concerned?

24 MR. TRIPATHI: Well, Move Arizona, as you know,
25 again, we are not sure if we are going to call it Move

1 Arizona. We are working --

2 MR. ZUBIA: Long-range plan.

3 MR. TRIPATHI: -- the long-range plan. The
4 long-range plan as you know is both a State requirement and
5 also a Federal requirement. And through my Federal request
6 to the Federal administrator in terms of our planning
7 request, we have budgeted these funds for the State's
8 long-range plan in our state planning and research budget
9 that was submitted and approved by the Federal
10 administrator. So we do have funds to do that
11 Federally-mandated and State-mandated long-range plan. So
12 yes, I will not be coming back to you to ask for money for
13 the State's long-range plan.

14 CHAIRMAN SCHORR: Let me ask you a question. On
15 this particular item, Number 14, is there a time constraint
16 which requires that this item be acted upon today?

17 MR. TRIPATHI: Yes, sir. And the reason being is
18 that we're pretty much on a tight deadline, as you can
19 imagine, in terms of getting this rail framework process
20 and the statewide travel-demand modeling that we have
21 contracted out to be finished by at least the middle or
22 latter part of this coming year.

23 And then concurrently we will be also working on
24 the State's long-range plan, and we will have to bring that
25 to you in the early part of 2010 so you'll have adequate

1 time to review that.

2 What I would suggest, Mr. Chairman, honorable
3 members of the Board, is that I will be more than happy to
4 amend the Item 14 language to say, Statewide transportation
5 planning framework study increase the funding by
6 \$3.5 million for additional work on the scope of study to
7 incorporate the rail frameworks associated modeling and
8 public involvement.

9 CHAIRMAN SCHORR: And one further question if I
10 may. I read recently that Congressman Pastor was the
11 moving force behind getting us, the State, a grant of
12 \$1 million, I believe it was, for rail studies. Is this --
13 it also required a match. Will this be used as a match to
14 that?

15 MR. TRIPATHI: I believe not, because again,
16 those are two very different issues. The \$1 million grant
17 was very project-specific, and it was for a particular
18 application, and this is more statewide planning.

19 CHAIRMAN SCHORR: Is it possible to amend the
20 study so as to provide the match for that \$1 million grant
21 absent, which I think we won't be able to realize it?

22 MR. TRIPATHI: That is an excellent point. I did
23 not think about it, and we could look into it.

24 If Director Travis wants to say a word, he's more
25 than welcome to.

1 MR. TRAVIS: Mr. Chairman, members, we are
2 actively seeking the match for that \$1 million. I don't
3 know where we stand today in terms of total collections
4 through pledges. Obviously when Congressman Pastor came
5 out -- the economy has changed drastically and some of our
6 funding parties are not able to meet some of their verbal
7 commitments, but we can investigate what funds we have
8 available, although I'm not sure this would work. But
9 again, we are still hopeful that we can gain it from both
10 our COG and MOP partners as well as the private sector.

11 CHAIRMAN SCHORR: I understand time is always so
12 very important, but to echo what the Board has said, we are
13 very appreciative of the great, great efforts that you have
14 made in the short period of time you've been here. I think
15 it's rather remarkable the quality and the quantity of the
16 planning that you've been doing during your tenure.

17 But is it possible to put this off for 30 days
18 without doing great harm so that some of the questions and
19 concerns that have been raised can be better addressed?

20 MR. ZUBIA: I'll let you off the hook. How about
21 this: I'm willing to consider moving this forward,
22 however, not without a few constraints, that being with
23 reports back to the Board on certain items.

24 Again, I agree with this 100 percent. I support
25 it 100 percent. I appreciate you kind of modifying -- I

1 don't know that you can modify the agenda, so to speak. In
2 fact, I heard the Darth Vader music coming up as our
3 illustrious attorney was walking up. So I don't think you
4 can amend the agenda, but I appreciate the clarification.

5 CHAIRMAN SCHORR: Why don't you try a motion.

6 MR. ZUBIA: My motion will be to approve the
7 request with the requirement that the planning director
8 provide a monthly report on the status of the DQAZ
9 framework studies all inclusive to the current process as
10 well as the expanded scope that we are approving here
11 today.

12 MR. TRIPATHI: I will be more than happy to do
13 that, and I think that is something that I look forward to
14 providing you with a report every month.

15 CHAIRMAN SCHORR: The motion has been made.

16 MR. FELDMETIER: Second.

17 CHAIRMAN SCHORR: Seconded.

18 MR. MONTTOYA: May I make a comment?

19 CHAIRMAN SCHORR: Please.

20 MR. MONTTOYA: Mr. Chairman, I guess we looked at
21 7 million. Now we have \$3 1/2 million. What I would like
22 to see is what other phases are there going to be, or if
23 they're not, then I'm okay with it. But are we looking at
24 11 million or are we looking at another incremental
25 increase for another 2 million for another part of the

1 study, or what other phases could we be looking at?

2 MR. TRIPATHI: Mr. Chairman, Mr. Montoya, this is
3 it. I'm not going to come back to you for -- again, as I
4 mentioned to you, it does sound like we're asking for more
5 money for the whole scope, but this is additional work.
6 And I don't see us studying anything more than this, and I
7 think this will be the final request to complete --

8 CHAIRMAN SCHORR: I think you've answered the
9 question.

10 MR. TRIPATHI: Thank you.

11 CHAIRMAN SCHORR: The motion has been made,
12 seconded.

13 Are there any further questions or comments?

14 I would ask that the makers of the motion agree
15 to a friendly amendment which will be to see if this study
16 could be modified so as to meet the requirements of the
17 match for the \$1 million grant which I've previously
18 mentioned.

19 MR. TRIPATHI: We'd be more than happy to make
20 that investigation.

21 MR. ZUBIA: I will accept that.

22 CHAIRMAN SCHORR: Made and seconded.

23 Before we vote, I see Mr. Acosta.

24 MR. ACOSTA: Yes. Thank you, Mr. Chairman and
25 members of the Board. I hesitate to suggest an executive

1 session, but I'm concerned about the agenda, what's stated
2 on the agenda and what appears to be the content of the
3 recommendation of the motion and maybe a couple of meeting
4 issues with regard to that.

5 CHAIRMAN SCHORR: Before we can consider that,
6 the item is advertised as Item 14, "Statewide
7 transportation planning framework study. Increase the
8 funding by 3.5 million for additional work on the scope of
9 the study," to which was added the words "concerning rail."
10 I don't have that exactly written down.

11 Is that your concern, the adding of the rail?

12 MR. ACOSTA: What I was concerned with -- do you
13 want me to say it out here?

14 CHAIRMAN SCHORR: Sure.

15 MR. ACOSTA: -- particularly the questioning by
16 Mr. Zubia with regard to what is it you're asking us, the
17 Board, to approve the 3.5 million for. The statement that
18 I thought that Mr. Zubia stated it was going to be one
19 thing based on what's on the agenda, and I'm hearing
20 something else now. That's what I concerned about. A
21 reader of the agenda may not be adequately informed about
22 what the Board is actually being asked to do and is
23 considering at this time.

24 CHAIRMAN SCHORR: May I suggest then, in order to
25 allay Mr. Acosta's fears, a motion which would read exactly

1 as it's put on Item 14, with Mr. Zubia making a motion
2 subject to the following conditions and put in the language
3 that you addressed as part of your motion as conditioned.
4 Would that meet the test?

5 MR. ZUBIA: I think -- I hear what the concern
6 is. I'm more than happy to do that. I don't think it's
7 necessary in all honesty. I think the issues are more of
8 semantics. I think what Rakesh clarified was that in fact
9 it is the same contract. There's not going to be a new
10 contract awarded. There's not going to be anything that
11 would cause this to have to go to a public hearing or to a
12 rebid, if you will. It will be within the same scope.

13 I think it's a matter of semantics clarifying
14 that it was in fact the same project with additional items,
15 much like a change order would be on a construction
16 project, something you didn't perceive having to do you now
17 have to do. I don't feel that it falls outside of what was
18 advertised, but I do appreciate the clarification on the
19 semantics.

20 MR. ACOSTA: Let me suggest that we make sure
21 that staff is agreeing with you, that it is not a change in
22 the scope. And if it is, then your motion would be
23 accurate with regard to what's on the agenda.

24 CHAIRMAN SCHORR: Mr. Acosta, I don't want to get
25 into a legal discussion out in public, but it's typical,

1 customary, we've been doing it forever, the motion is being
2 made subject to conditions. Are you suggesting that every
3 time we add a condition to a motion that that is a new
4 motion?

5 MR. ACOSTA: No. All I'm suggesting is that from
6 the record as it exists now, there's some concern about
7 whether the action that is being suggested in the motion
8 could be reasonably determinable from someone reading the
9 agenda.

10 CHAIRMAN SCHORR: Mr. Zubia, would you restate
11 the motion in such fashion as to incorporate the exact
12 language and put in whatever other conditions you want as
13 conditions?

14 MR. ZUBIA: I don't think that's what he's
15 asking.

16 CHAIRMAN SCHORR: I think it is.

17 MR. ZUBIA: I think what he's asking is a
18 confirmation of staff that in fact it's not a change in
19 scope. If the staff can just answer that, I think the
20 motion stands as it was made.

21 Rakesh, can you confirm that the request is not
22 to change the scope?

23 MR. TRIPATHI: It's not to change the scope.
24 It's to add work, add a new element to the scope, not to
25 modify what we already have, the existing scope. This is

1 additional work that we're doing.

2 CHAIRMAN SCHORR: Felipe, do a motion with
3 exactly this language and incorporate your comments as
4 subject to the following conditions.

5 MR. ZUBIA: I would like to make a motion that
6 the Board approve Item Number 14 to increase the funding of
7 the statewide transportation planning framework study by
8 \$3.5 million for additional work on the scope of study
9 subject to the planning director providing monthly updates
10 on the progress of the statewide transportation planning
11 framework study.

12 And also, Mr. Schorr, do you want to add the
13 additional --

14 CHAIRMAN SCHORR: Yes. My suggestion is that
15 subject to ascertaining whether the study can be utilized
16 to meet a grant of \$1 million, which has been authorized
17 for rail study in Arizona.

18 So moved.

19 MR. HOUSEHOLDER: Second.

20 CHAIRMAN SCHORR: Seconded.

21 MR. FLORES: You're modifying -- there's a motion
22 and a second on the floor. What are we doing with that?

23 CHAIRMAN SCHORR: He's restated that.

24 You've heard the restated motion and the second.
25 Any further discussions or comments?

1 All in favor say "aye."

2 MR. TRIPATHI: Thank you, Mr. Chairman.

3 MR. TRAVIS: Mr. Chairman, while the wound is
4 still open, can we agree -- would the Board agree to a
5 written summary to be included in the packet each month so
6 that if the Board has questions those can be articulated
7 back to either Victor or myself or the planning director so
8 that when we appear before the Board we are prepared to
9 answer your questions on the framework study? If there are
10 no questions there will be no presentation.

11 CHAIRMAN SCHORR: I'll leave that to the maker
12 and the seconder of the previous motion.

13 MR. ZUBIA: I would expect that a written summary
14 be part of the packet, but not necessarily foregoing a
15 presentation. I think it should be listed as a
16 presentation item.

17 CHAIRMAN SCHORR: Our next item on the agenda is
18 Item Number 10, which is a consideration of a request by
19 the Arizona Community Foundation to make a presentation to
20 the Board at the November meeting regarding the
21 foundation's housing and transportation survey of Arizona
22 employers and possible discussion of the survey.

23 MR. FLORES: Mr. Chairman, in the interest of
24 time, that is a request that they formally come before this
25 Board. It may be much more timely than now. This survey

1 took place in April. There's been a lot of things that
2 have occurred since with regard to the workforce, housing
3 and transportation, so I would ask that it will be included
4 in the November agenda.

5 CHAIRMAN SCHORR: Very good.

6 I don't think we need a motion for that, which I
7 think we have the power to do that under other items on the
8 agenda. But let the record show the request by Victor and
9 we're asking that it be set for the November agenda. Thank
10 you.

11 Our next items are 11 through 16 -- our next item
12 is Item 23, construction contracts.

13 MR. FORSTIE: Mr. Chairman, members of the Board,
14 I'm Doug Forstie, deputy state engineer for ADOT, and I'm
15 filling in for Floyd Roehrick today. He's on a business
16 trip, so I will be giving the State engineer's report.

17 First of all, this is a summary of our
18 construction contracts we'll be looking at today. We have
19 a total of six projects, and the total State estimate on
20 that was about 91 million, adding up the low bids to around
21 74 million for a net change with a negative \$16 million.

22 CHAIRMAN SCHORR: Of course in this case that's a
23 positive, isn't it?

24 MR. FORSTIE: That's good news, yes.

25 The first project we are going to look at --

1 excuse me for a minute. We were going to take Agenda Item
2 Number 24, is my understanding, and put that to the end of
3 the agenda?

4 CHAIRMAN SCHORR: Yes, but 23 will be first.

5 MR. FORSTIE: 23 is the first item. This is a
6 landscape project at the intersection of I-10 and I-19 in
7 Tucson.

8 We had five bidders on this particular project,
9 the lower bidder being Recon, Incorporated, at \$1,942,490.

10 We just received a protest letter that was faxed
11 over here from Martin -- M. Anderson's Construction
12 Corporation, and according to the specifications you have
13 seven days to reply to make a formal protest. It's way
14 past that seven-day requirement. We just wanted to note it
15 for the record that this letter was received, and we will
16 reply back to it, that they missed the deadline.

17 CHAIRMAN SCHORR: What's the gist of their
18 complaint?

19 MR. FORSTIE: The gist of their -- let me get to
20 the reason why the low bidder was so much lower than the
21 State's estimate, and then we will get to the reason for
22 their concern or bid protest.

23 Again, this is a landscaping project, and part of
24 that was we used mulch material, two- to four-inch thick
25 decorative rock mulch and about 34,000 square yards of rock

1 mulch. Our State estimate for that was approximately \$17
2 per square yard. The low bidder, who is Recon, came in at
3 \$2.80 per square yard, which was considerably less than our
4 estimate.

5 Our staff did talk to Mr. Larry Shafkind, owner
6 of Recon, and contacted him regarding the reason for that
7 price, and I just wanted to read that portion here.

8 "With respect to the decorative rock mulch bid
9 item that the State received the price code from a Tucson
10 area supplier. The State's unit price included a markup on
11 the quote, plus labor and equipment to place material.
12 Mr. Shafkind acknowledged the computational error in his
13 unit price, but he chose not to say how much. He did say
14 that he will do the work for the unit price stated in the
15 bid."

16 So he did acknowledge that that price was really
17 low, but looking at the total bid he still felt comfortable
18 that he could do it for that price.

19 CHAIRMAN SCHORR: If you take that discrepancy,
20 between 17 and 2.80, what does that amount to?

21 MR. FORSTIE: The difference then would be almost
22 \$500,000 -- 495,000, so that's a big chunk of the
23 difference between our State estimate and low bid price
24 that was furnished by Recon. There were some additional
25 items on seeding and landscape establishment, but they

1 weren't significant.

2 So looking at the totality of it, going back to
3 Martin -- M. Anderson's letter, his concern was the price
4 of the rock mulch. He felt that it could be unbalanced.

5 CHAIRMAN SCHORR: But you say he missed the
6 deadline for filing it?

7 MR. FORSTIE: Yes, he did.

8 MR. ZUBIA: I have a question. When you say he
9 missed the deadline, when does it start? When does the
10 notification --

11 MR. FORSTIE: I think he has seven days from the
12 day the bids were opened.

13 MR. ZUBIA: From the day the bids were opened?

14 MR. FORSTIE: Yes.

15 So this is, what, 14 or 15 days after bid opening
16 at this time.

17 CHAIRMAN SCHORR: Any further questions or
18 discussion?

19 Do we hear a motion?

20 MR. HOUSEHOLDER: I move approval.

21 MR. FLORES: Second.

22 CHAIRMAN SCHORR: Move and seconded.

23 All in favor say "aye."

24 Item 24 is the next item on the agenda, however,
25 I will have to be recusing myself on that item for a

1 conflict, and we're going to move that as the last item on
2 the agenda. So let's move on to Item 25.

3 MR. FORSTIE: Okay. Item 25 is a project on
4 State Route 73 in Gila County just close to the town of
5 White River. This project consists of -- we have some
6 severe erosion problems at the outlet end of the large
7 multiplated pipe. This project will go in to construct --
8 filling the basin with some riprap and gradients to take
9 care of the erosion at the outlet end of the pipe.

10 The apparent low bidder on this particular
11 project is Beco Construction. His bid came in at
12 \$197,741.41. The State's amount was 161,000 and some
13 change. His bid was actually about 22 percent over the
14 State estimate.

15 And in discussion with Beco Construction, two
16 major items where the price difference was on the cement
17 squaring. They bidded \$500 for cubic yard, where the State
18 estimate was 200. After discussing with them, we were way
19 low on that particular price. This is somewhat of a remote
20 area, so all the material has to be brought in. And also
21 the cost of riprap is higher because it's going to require
22 a lot of hand work. You won't be able to use a lot of
23 machinery on this particular project.

24 Based on all of the above information we're
25 comfortable that we recommend the award to Beco

1 Construction.

2 CHAIRMAN SCHORR: We heard the recommendation, do
3 I hear a motion?

4 MR. FLORES: Motion made.

5 CHAIRMAN SCHORR: Second?

6 MR. HOUSEHOLDER: Second.

7 CHAIRMAN SCHORR: Motion made by Mr. Flores.

8 All in favor say "aye."

9 Any opposed?

10 So ordered.

11 Number 26.

12 MR. FORSTIE: This is a project on US 89 in
13 Coconino County. This project consists of lighting --
14 rural lighting at two different locations: One by Gray
15 Mountain and the other location's up by the GAP.

16 The low bidder on this particular project is
17 Rural Electric. Their amount is \$105,624, and the State
18 estimate was \$128,770. Their bid came in at 23,000 under
19 the estimate or 18 percent under.

20 I'll even read a portion on this. We did have
21 some circumstances that needed to be explained. "At the
22 bid opening G.U.Y. Construction, L.L.C, was read as the
23 apparent low bidder with the bid of \$111,111.11. The
24 second low bidder was C S Construction, Incorporated, with
25 a bid of \$111,427.34, and the third bidder was Rural

1 Electric with the bid of \$115,624.

2 "Subsequent to the bid opening, the Department
3 reviewed Rural Electric's bid. The product of the quantity
4 shown on the bid schedule and the unit price specified in
5 the bid schedule for each item is shown correctly.
6 However, the submission of the products was shown on the
7 bid as \$115,624, which was incorrect. The correct
8 summation is \$105,624, which makes Rural Electric the low
9 bidder."

10 So taking the unit cost times the quantity,
11 that's the total that governed according to specification.
12 And you sum all that up to get the grand total, and that
13 was done correctly for Rural Electric's bid. They'd become
14 the low bidder because they added up their summation wrong
15 on their estimate.

16 CHAIRMAN SCHORR: So with respect to that, what
17 you're saying is that the unit price governs over the
18 conclusory price that you put in the bid?

19 MR. FORSTIE: That's correct. And that's very
20 clear in our specifications, that the unit price governs.

21 There was also an irregularity concerning the
22 nonconclusion affidavit. In submitting its paper format
23 bid documents, Rural Electric failed to sign and notarize
24 the noncollusion affidavit form. The noncollusion
25 affidavit states in part, "The undersigned certifies that

1 either he or anyone associated with the company, firm,
2 corporation or individual mentioned above has either
3 directly or indirectly entered into any agreement,
4 participate in any collusion or otherwise take any action
5 to restrain a full competitive bidding in connection with
6 the project."

7 The third paragraph in the bid proposal reads
8 pretty much in the same manner. So the proposal -- bid
9 proposal makes the same representations as noncollusion
10 form. If you go in our specifications and look at
11 Subsection 102.1, paren, A, paren, 7, states that proposals
12 may be considered irregular and maybe rejected if the
13 bidder fails to sign a noncollusion certificate when
14 submitting a bid in the paper format.

15 The State engineer in this case -- it would be
16 our recommendation that the Transportation Board should
17 waive the minor irregularity and recommend the Board award
18 the contract to Rural Electric. So that would be our
19 recommendation.

20 CHAIRMAN SCHORR: May I ask a question? Why do
21 you recommend that the Board waive the noncollusion
22 affidavit?

23 MR. FORSTIE: I'm going to ask Barry Crockett to
24 explain a little bit of that, some of the past history.

25 Barry, if you could, or Joe, either one.

1 MR. CROCKETT: Mr. Chairman, members of the
2 Board, my name is Barry Crockett, manager of the contracts
3 and specifications section.

4 To give you a little bit of background on that
5 particular aspect, this particular situation has come up in
6 the past where a contractor has submitted a bid and on that
7 bid submittal the noncollusion affidavit wasn't signed
8 and/or wasn't notarized. In those particular cases in the
9 past the State engineer has also come to that same
10 conclusion that they felt that it was a minor irregularity
11 and that technicality, because of the nature, they felt it
12 was a minor defect. In each of those cases there was a
13 recommendation to award the projects in the past, and those
14 have always been awarded in the past.

15 I will add one additional thing. We did ask that
16 particular contractor, Rural Electric, to submit to us a
17 signed and notarized affidavit, and we haven't received
18 that subsequently. And so basically the language that
19 they're signing for, the noncollusion affidavit, had
20 already been signed for making the same representation on
21 the proposal page.

22 Did I answer that question?

23 CHAIRMAN SCHORR: You've given us the facts, but
24 I'm not sure you've answered the reason as to why it should
25 be waived other than it's been waived in the past.

1 From my discussions here I understand there may
2 be other reasons, to wit, that the very purpose of a
3 noncollusion affidavit may be academic in the sense that we
4 allow today -- as I understand it, we allow electronic
5 bidding to bid, and if you do an electronic bid you don't
6 have to put in a noncollusion affidavit with a notary. So
7 hence, if you do a bid online without a noncollusion
8 affidavit, or if you don't do it online you have to have
9 one according to the specs; am I correct?

10 MR. CROCKETT: That is correct.

11 CHAIRMAN SCHORR: Is that the reason why you're
12 saying the Board should consider waiving this?

13 MR. CROCKETT: Mr. Chairman, that's correct.

14 MR. FELDMEIER: Then the Board has the authority
15 to grant the waiver or reject the waiver?

16 MR. CROCKETT: Based on the language that -- my
17 understanding is based on the language that's in the
18 standards and specifications, specifically the subsection
19 that was referred to earlier where this is an irregularity
20 that may be considered a waiver or may be rejected, the
21 Board has the latitude to waive this minor irregularity.

22 MR. FELDMEIER: So the language actually says
23 "minor irregularity"?

24 MR. CROCKETT: No, the language does not say
25 minor irregularity. The State engineers determined that

1 this particular irregularity is a minor irregularity.

2 CHAIRMAN SCHORR: I have a further question. Why
3 do we have a noncollusion affidavit at all? Seems to me
4 it's anachronistic. We don't need it anymore. If you're
5 waiving it periodically, if it doesn't serve a useful
6 purpose, why do you have it?

7 MR. FORSTIE: You asked a good question. I think
8 it's time that staff take under advisement to go back and
9 discuss it with the State engineer and consider that. I
10 believe, you know, prior to having electronic bidding,
11 which you referred to earlier, that was the only means that
12 we really had for them to sign and notarize to have an
13 affidavit. And now that we have these other means we
14 really ought to reconsider that.

15 CHAIRMAN SCHORR: Any further questions or
16 comments?

17 Do I hear a motion?

18 MS. BENNETT: May I speak? Mr. Chairman, may I
19 speak? I'm with G.U.Y. Construction.

20 MR. FORSTIE: Mr. Chairman, I forgot to mention
21 G.U.Y. Construction did submit a letter requesting to have
22 the opportunity to speak in front of the Board.

23 CHAIRMAN SCHORR: Under the circumstances I think
24 we will allow that.

25 MS. BENNETT: Mr. Chairman, members, I'm here

1 representing G.U.Y. Construction to try to keep this award.

2 CHAIRMAN SCHORR: Will you identify yourself.

3 MS. BENNETT: My name is Dawn Bennett, and I'm
4 the project --

5 CHAIRMAN SCHORR: Can you give your address too,
6 please?

7 MS. BENNETT: Mr. Chairman, my name is Dawn
8 Bennett. I'm project manager of G.U.Y. Construction, and I
9 am here to represent G.U.Y. Construction in trying to keep
10 the award with our company. I realize that possibly the
11 decision has already been made. However, in the
12 specifications that they are talking about, it does state
13 in there "may reject," and what they call it -- it is under
14 Section 102.1, irregular proposals. And number four of
15 what one of those irregular proposals where a bid could be
16 rejected is a mathematical error. And the other one,
17 number six, would be noncollusion affidavit not being
18 signed and notarized, in which case both of those were done
19 in this.

20 We have acknowledged that the mathematical error
21 can be summed up in the facts that their unit price did
22 match what it should have been, so for us, that's okay.
23 However, with the noncollusion not being signed, they did
24 not -- what is the word I'm looking for here? -- completely
25 execute their proposal.

1 With that, G.U.Y. Construction has been on both
2 ends, both sides of this fence, where we have had a job
3 awarded to us due to the low bidder not fully executing
4 their proposal, and we have also had one taken from us due
5 to what is being called a minor irregularity. In both
6 cases they called it a minor irregularity, and we were
7 awarded one and on another instance a year later, we had
8 one taken from us.

9 With that being said, this falls into another
10 minor irregularity, and we were told back when all this
11 happened, when we were on the award end and on the end of
12 it being taken away from us, that the rules are the rules,
13 and if we start bending them now, then everyone will
14 continue to want that to be done.

15 CHAIRMAN SCHORR: Thank you.

16 May I just tell you that the Board has not made a
17 decision on this. They won't make a decision until it
18 votes, but thank you very much for coming.

19 MS. BENNETT: Thank you.

20 CHAIRMAN SCHORR: Any further questions or
21 comments?

22 I'd like to ask our counsel to comment on this
23 and say whether the Board may -- does counsel agree that we
24 may waive the noncollusion affidavit?

25 MR. ACOSTA: Joe Acosta, assistant attorney

1 general.

2 Mr. Chairman, yes, I agree that it's a
3 discretionary matter for the Board. It's clearly stated in
4 our specifications that are included in the packet that
5 you've all received and was read by Mr. Forstie in his
6 presentation.

7 CHAIRMAN SCHORR: Thank you.

8 Is there a motion to be made on this matter?

9 MR. MONTTOYA: I move to approve Item 26.

10 CHAIRMAN SCHORR: Moved by Mr. Montoya.

11 MR. FELDMEIER: Second.

12 CHAIRMAN SCHORR: Seconded by Mr. Feldmeier.

13 MR. FLORES: Mr. Chairman, clarification again on
14 the mathematical error. Obviously when the bids were
15 opened the amounts were announced, staff goes back and
16 checks. I'm assuming at this particular point the
17 contractor who now had the \$10,000 difference came back to
18 staff and indicated that there was an error on their
19 tabulation, and you consequently went with unit price and
20 quantities and confirmed that there was a \$10,000 error.
21 Is that the way that -- how did that occur?

22 MR. FORSTIE: Mr. Chairman, Mr. Forstie, I think
23 our staff practice is our staff checks all that after the
24 bid opening. I believe it was staff that actually caught
25 the error. Barry may be able to address that better.

1 MR. CROCKETT: Mr. Chairman, Mr. Forstie,
2 subsequent to the reading of the bids at every bid opening,
3 staff goes back and checks, among other things, checks the
4 unit price to make sure the unit prices that are put in the
5 bid are multiplied correctly with the quantity that's given
6 and that extension is summed up correctly.

7 In this particular case we went back and we
8 identified that every unit price was multiplied correctly
9 by the quantity. The summation that they had written at
10 the end of their bid was off by that amount of money. When
11 we summed those numbers up, that's when we came up with
12 \$105,000.

13 MR. FLORES: When you actually call out the
14 numbers at that particular time, is there an expectation
15 that you will go back and look at the numbers to confirm
16 that they are in fact as presented at that opening bid?

17 MR. CROCKETT: Mr. Chairman, Mr. Flores, at the
18 conclusion of reading all the bids for any given project,
19 we state the apparent low bidder is X Y Z Contracting
20 Company. So that's why it's imperative that we go and
21 confirm that all the bids that have been submitted are
22 correct.

23 MR. FLORES: So Mr. Chairman, the notion that the
24 apparent low bidder at a particular opening thinks he's the
25 low bidder may not in fact be the case, because you will go

1 back and review and confirm all the numbers and everything
2 is according to the way they submitted it? Aside from the
3 letter. I'm talking just about the numbers.

4 MR. CROCKETT: That's exactly correct.

5 CHAIRMAN SCHORR: Any further questions or
6 comments?

7 All in favor of the motion say "aye."

8 Carried and so ordered.

9 The next item is 27.

10 MR. FORSTIE: We are on Agenda Item 27?

11 CHAIRMAN SCHORR: That's correct.

12 MR. FORSTIE: Am I missing something, Don?

13 VOICE FROM THE AUDIENCE: 27 is not on there.

14 MR. FORSTIE: I think we can do it without the
15 Power Point.

16 Item 27 is a project on State Route 186 in
17 Cochise County. This project consists of removing existing
18 fence and constructing new fence -- new fence and gates and
19 taking some cattle guards out and installing some new
20 cattle guards.

21 The low bidder on this particular project is
22 Agave Environmental Contracting. Their bid came in at
23 \$352,007.79. The State amount was \$388,807.75 with the low
24 bidder being 9 1/2 percent under the State estimate.

25 At the bid opening Beco Construction was read as

1 the apparent low bidder with the bid of \$333,278.35. The
2 second low bidder was Agave Environmental Contracting,
3 Incorporated, with the bid of \$352,007.79.

4 Subsequent to the bid opening, Beco's bid was
5 determined to be \$383,778.35. The product of the quantity
6 shown on the bidding schedule and unit price specified in
7 the bidding schedule for each item was shown correctly.
8 However, the summation of the products was shown on the bid
9 as \$333,278.35, which is incorrect. The correct summation
10 is \$383,778.35, which makes Agave Environmental Contracting
11 the low bidder.

12 And then Agave's bid contained an irregularity
13 regarding the noncollusion affidavit. In submitting its
14 paper formal bid documents, Agave notarized but failed to
15 sign the noncollusion affidavit form. This is very similar
16 to the one we just discussed. The only difference here was
17 they did submit everything, but they just forgot to sign
18 the form. And subsequent to that, they have signed the
19 affidavit and turned it in to us.

20 CHAIRMAN SCHORR: Any questions?

21 MR. FORSTIE: We also received a letter from Beco
22 Construction indicating that they were going to be present
23 here at the Board meeting and would like to speak.

24 CHAIRMAN SCHORR: Is the Beco representative
25 here?

1 Would you give your name and address for the
2 record, please?

3 MR. ANDERSON: Good afternoon. This is a --

4 CHAIRMAN SCHORR: Would you give your name and
5 address for the record, please?

6 MR. ANDERSON: This is a situation in which the
7 rules of sealed bidding is in jeopardy, and what it boils
8 down to is that there are rules -- I have given you in the
9 paperwork here -- in which the irregular proposal may or
10 may not be cause to reject.

11 Now, this may be something that's debatable
12 supposedly by ADOT and which we take exception to.
13 Otherwise, the rules -- first of all, I went to the
14 logbooks -- or the law library to find out if there was any
15 previous precedence, and I found none. I think that's a
16 great compliment to the many contractors who do business
17 with ADOT, because what they have done, they have followed
18 the rules. And of course, when we entered our bid, we
19 entered it and had an error not in the unit price but in
20 the figured extended price. And when the unit price was
21 read or figured in, it became apparent that we were higher
22 than Agave.

23 Now, Agave had this error of not signing the
24 noncollusion affidavit, and as I have put here in this
25 letter, if it is a matter of form or not substance, why

1 even include the notarized noncollusion page?

2 It's the rule that they have to be signed, and
3 the irregularity of it demands that action be taken, and
4 that action Beco was calling for is not to approve the
5 waiver but to award the contract to Beco.

6 Now, yesterday ADOT sent us a letter, and you
7 have it there, in which -- first of all, we protested in
8 the sense that Agave is being given two bites of the apple.
9 Now, ADOT didn't seem to understand what I was talking
10 about, but here's the nonnotarized copy, and this copy is
11 then -- a blank is then given to Agave and says, Fill this
12 out and notarize it, and we'll give you the job.

13 Well, what if Mr. Agave then looks at his figures
14 and says, Gee, I don't want that. He doesn't have to send
15 the paper back, and he gets two bites of it, and I object
16 to the two bites.

17 And then ADOT says that because electronic
18 bidding does not require the notarized affidavit, that
19 should pertain to the paper bidding. That's not true.

20 The paper bidding is the paper bidding, and an
21 irregularity of it demands that the waiver not be given.

22 I just simply have presented you with the
23 paperwork and appreciate the time.

24 CHAIRMAN SCHORR: Before you leave, would you
25 give us your name, please, your name and address, please?

1 VOICE FROM THE AUDIENCE: He wants your name and
2 address.

3 MR. ANDERSON: D. M. Anderson, Box 1768, Idaho
4 Falls, Idaho, 83401.

5 CHAIRMAN SCHORR: Thanks very much.
6 Anyone else?

7 MR. ANDERSON: We would not object to a
8 postponement of your decision until next month to give you
9 time to look at this.

10 CHAIRMAN SCHORR: Thank you.
11 Is there anything further?

12 MR. FORSTIE: No.

13 CHAIRMAN SCHORR: Do we have a motion on this
14 matter?

15 MR. FELDMEIER: I have a question. Are we
16 looking at two issues? One is the waiver related to the --
17 whatever it is -- noncollusion affidavit, and the other one
18 is the way the addition came down at the bottom line?

19 CHAIRMAN SCHORR: That's correct.

20 MR. FLORES: I'll move for approval.

21 CHAIRMAN SCHORR: A move for approval.
22 Is there a second?

23 MR. HOUSEHOLDER: Second.

24 CHAIRMAN SCHORR: Move and seconded.
25 Any further discussion?

1 All in favor say "aye."

2 MR. MONTTOYA: I have a question.

3 CHAIRMAN SCHORR: I'm sorry. Bob.

4 MR. MONTTOYA: I guess, Mr. Forstie, I don't know
5 how to frame this question. If the apparent low bidder was
6 Beco, our Department checks the math and you find the
7 error, can the State still award that apparent low bid and
8 make them perform at that price, or do we have to honor a
9 change order?

10 MR. FORSTIE: Mr. Chairman, Mr. Montoya, if I
11 understand your question correctly, our specifications are
12 very clear on that matter where the unit price governs, so
13 you have to take the unit price times the quantity and sum
14 it all at the end, and that is the number that is valid and
15 has to stand.

16 MR. MONTTOYA: Mr. Chairman.

17 CHAIRMAN SCHORR: Yes, sir.

18 MR. MONTTOYA: Basically we're doing an audit of
19 their bid to verify that that is the low bid. And if it
20 isn't the low bid, then we are required to notify them and
21 award the bid to the low bidder?

22 MR. FORSTIE: That's correct.

23 MR. MONTTOYA: Thank you.

24 CHAIRMAN SCHORR: One of the points that was
25 raised most recently by the most recent speaker is of

1 concern to me, and that is, you are giving -- in
2 circumstances where the noncollusion affidavit has not been
3 signed or properly notarized, either one of those
4 circumstances, we then tender the affidavit to the bidder
5 and ask them to sign it after the fact. What if they don't
6 sign it?

7 MR. FORSTIE: Mr. Chairman, Mr. Schorr, that's a
8 great question. I guess I would ask our counsel to address
9 that particular question.

10 CHAIRMAN SCHORR: I'm concerned that may give
11 them the option -- say you're in a period of volatile
12 circumstances, such as we are today. Doesn't that give
13 that bidder the opportunity to say, You know, I've
14 reconsidered. I don't want to even get involved in this
15 job. I'm not going to sign the affidavit. Forget about
16 it. Does that give them that power?

17 MR. FORSTIE: I'm going to defer that to our
18 counsel.

19 CHAIRMAN SCHORR: That was a rhetorical question.
20 I don't expect our counsel to answer that.

21 MR. ACOSTA: There's a couple of things to say
22 about that. I really think that the operative statement is
23 made at the time of the bid.

24 Now, the opportunity to sign the affidavit gives
25 us greater faith -- may give us greater faith in the

1 statement, but the statement being in the proposal is
2 sufficient.

3 Now, why do we send the affidavit? Well,
4 everyone else has signed the affidavit, and we would like
5 everyone to have the affidavit signed. But let me --

6 CHAIRMAN SCHORR: My question is this: If the
7 bidder has tendered the affidavit post -- after the fact,
8 and they refuse to sign it, would that bidder, who is then
9 presumably to be the low bidder, have the opportunity to
10 back out of that bid?

11 MR. ACOSTA: I'm going to answer it in two ways:
12 One is that bidder would probably be disqualified from
13 doing any work at all for the Department of Transportation.

14 CHAIRMAN SCHORR: He goes on the list?

15 MR. ACOSTA: Right.

16 CHAIRMAN SCHORR: What's the second part?

17 MR. ACOSTA: The second part is he may not back
18 out of the bid but he may be retired or removed from the
19 contract, which we think the contract would be binding.
20 But he might be removed from that contract because he has
21 evidenced a refusal to tell us that he's not violating the
22 Antitrust laws and other fair trade and fair competition.

23 CHAIRMAN SCHORR: But it still gives him the
24 opportunity?

25 MR. ACOSTA: No, I don't think so. I don't think

1 it gives him the opportunity to get out of the contract.
2 The result might be that he in fact is removed from the
3 contract by ADOT because ADOT would say, Hey, if you're not
4 going to tell us that you don't violate the law, then we
5 don't want you. In other words, it would give us the right
6 to say not only are you not going to do this job --

7 CHAIRMAN SCHORR: We've already established that
8 he'd be on the list for all time. My question is, is he
9 subject to damages or can you enforce that contract against
10 him?

11 MR. ACOSTA: Yes, I think we can. In other
12 words, if it's awarded by the Board then it's a valid
13 contract, yes.

14 CHAIRMAN SCHORR: We've heard the motion and the
15 second.

16 Bob.

17 MR. MONTOYA: One more comment. How can a
18 company submit a notarized, unsigned document? Normally a
19 notary will require that person to be in front of them to
20 sign the document. That doesn't -- I'd like to have an
21 explanation of that.

22 CHAIRMAN SCHORR: What's your question?

23 MR. MONTOYA: Well, it says Agave notarized but
24 failed to sign the noncollusion agreement. So how can a
25 notary notarize a document that's unsigned?

1 CHAIRMAN SCHORR: You're good, Bob.

2 MR. MONTOYA: Well, I mean, I'm in the real
3 estate business, and I have title companies sign deeds.

4 You're an attorney as well, so would you notarize
5 a blank document?

6 CHAIRMAN SCHORR: It's against the law, you know.

7 MR. MONTOYA: Is that a point in there?

8 CHAIRMAN SCHORR: I think under the circumstances
9 we might want to continue this matter or have it rebid. I
10 think there are a number of questions that have been
11 raised.

12 Richard.

13 MR. TRAVIS: Mr. Chairman and Mr. Montoya, to
14 your question, my understanding is the notary actually
15 signed on the line where the affiant is supposed to sign.

16 Is that correct?

17 MR. FORSTIE: That's correct.

18 MR. TRAVIS: In terms of continuing, there are
19 several options. It could be rebid, but I think that would
20 create a host of other problems.

21 I think the purpose of the affidavit, as we
22 discussed with the Chairman on the phone yesterday, may no
23 longer be served in our era of electronic submissions. I
24 think what's transpired is on the day of the written
25 submission of bids an affidavit was required we believe in

1 part because of Federal requirements to ensure that our
2 bidders were not colluding.

3 Since we've gravitated more to electronic
4 bidding, which is much preferred by the contracting
5 industry, we now have a different system for electronic
6 bidding and written bids in that one requires an affidavit
7 and the other doesn't.

8 However, the electronic bid does require -- in
9 the bid there's a statement that says that no collusion
10 took place. However, it's not notarized.

11 I think the purpose is met, and what we're trying
12 to prevent is bidders colluding to inflate prices. The
13 concern going forward is whether -- first of all, as a
14 policy, should we revisit that, and as a department, we are
15 on the written bids. And the second is on the bid you have
16 before you, is it good; is it adequate.

17 Again, we can rebid it, but I think that opens a
18 host of problems.

19 MR. MONTTOYA: Mr. Chairman, I don't want to beat
20 this to death, and I appreciate Mr. Travis's explanation,
21 but if I were a notary and I signed on the wrong line, I
22 would then correct it, make sure that the person in front
23 of me that's supposed to be signing this affidavit sign
24 that line and then I would notarize it. It still doesn't
25 explain why there wasn't a signature by the applicant when

1 the notary notarized this document.

2 CHAIRMAN SCHORR: Your point is well taken.

3 We have a motion on the floor and a second.

4 In light of the circumstances, does the maker and
5 the second wish to withdraw their motion or they wish to
6 pursue it?

7 MR. FLORES: I made the motion, yeah. If that's
8 your wish, Mr. Chairman, I will withdraw it.

9 CHAIRMAN SCHORR: It's not my wish. It's up to
10 you.

11 MR. FLORES: Mr. Chairman, we have the third bid
12 that we will be discussing the same thing. I don't think
13 the importance -- if you can submit this document signed
14 after the fact, then if you submit it, whether you signed
15 it improperly, I don't think is that important, and it's
16 something that should be changed. This is kind of nonsense
17 that we've been going through this.

18 The only concerning part to me is whether or not
19 the extension, the unit price and the quantities and those
20 numbers were done according to whatever the specs --
21 whatever the rules are. If they are, then I believe that
22 this thing should be awarded.

23 CHAIRMAN SCHORR: The motion's been made.

24 Is there a second?

25 MR. HOUSEHOLDER: Second.

1 CHAIRMAN SCHORR: Second, Mr. Householder.

2 All in favor of the motion say, "aye."

3 I'll take the roll on that.

4 Bob.

5 MR. MONTTOYA: Nay.

6 CHAIRMAN SCHORR: I'm sorry. I didn't hear you.

7 MR. MONTTOYA: Nay.

8 CHAIRMAN SCHORR: Mr. Feldmeier.

9 MR. FELDMEIER: Nay.

10 CHAIRMAN SCHORR: Mr. Flores.

11 MR. FLORES: Yes.

12 MR. ZUBIA: Nay.

13 MR. HOUSEHOLDER: I think it's recommended there,
14 and they went through the whole process, and I'm going to
15 vote yes.

16 CHAIRMAN SCHORR: So what have we got here? Am I
17 the tiebreaker?

18 MR. ZUBIA: Yes.

19 CHAIRMAN SCHORR: The Chair is going to vote no
20 also, and I'm going to ask -- my recommendation is that the
21 matter be rebid. There's just too many little thingies
22 going on with this deal.

23 Counsel.

24 MR. ACOSTA: Mr. Chairman, members of the Board,
25 Joe Acosta again. The Board -- if the Board finds that one

1 or more of the bids will be acceptable, then the Board is
2 to award the contract to the lowest responsible bidder,
3 unless it finds that there is some irregularity in the
4 whole process that requires a rebid; for example, if there
5 was such a confusion in the specification that it became
6 apparent that not all of the bidders were bidding on the
7 same project for some reason.

8 The Board should not require a rebid on the basis
9 that it's difficult or impolite or some other type of word
10 that the Board is having difficulty in deciding -- in other
11 words, the Board is required to decide who the low bidder
12 is, and if that bid is acceptable and there is not
13 otherwise a widespread failure of competition, then the
14 Board is to award. So fortunately or unfortunately, that's
15 the Board's area of responsibility here.

16 CHAIRMAN SCHORR: The Chair recognizes counsel's
17 points, and I think his points are well taken. I would ask
18 that the matter be continued then for further study.

19 MR. MONTTOYA: Mr. Chairman, if I may make -- I
20 guess if we can ask our counsel, is there -- I understand
21 the irregularity, and I understand that the Department can
22 waive the noncollusion agreement. I guess my concern is
23 we've got an affidavit that was notarized incorrectly.
24 Does that present any violation of the law? That's my big
25 concern.

1 MR. ACOSTA: I can answer that. I think that
2 there's at least a technical violation by the notary -- by
3 the notary, him or herself. The notary obviously should
4 not be notarizing a document without going through the
5 precautions and the steps that are required by law.

6 But with regard to the bid -- the way I read it,
7 with regard to the bid, there's just not a document.
8 There's not a document submitted. There's a lack of a
9 noncollusion affidavit, and that's what the Board is faced
10 with.

11 CHAIRMAN SCHORR: Counsel, what's the appropriate
12 matter for us to continue this matter in light of what's
13 pending?

14 MR. ACOSTA: You can vote to table the matter to
15 another future Board meeting if the Board wishes to do so.

16 MR. FELDMEIER: Our vote to rebid has been
17 rejected?

18 MR. ACOSTA: I don't believe that there was a
19 motion to rebid on the table. My understanding of the
20 motion was to award in accordance with the State engineer's
21 recommendation, and that motion appears to have been
22 rejected.

23 My point in my last comment was that the Board --
24 if the Board finds that -- assuming if the Board were to
25 find that one bidder were to be rejected, but the second

1 bid is still acceptable, then the Board should award it to
2 that bidder.

3 In other words, the Board should award to one or
4 the other. The Board does not -- should not send it to
5 rebid just on the basis that it's difficult to make a
6 decision.

7 CHAIRMAN SCHORR: I asked your opinion with
8 respect to how we appropriately get the matter continued.

9 MR. ACOSTA: You can just make a motion to
10 postpone this item to a later Board meeting.

11 CHAIRMAN SCHORR: Anyone for that motion?

12 MR. ZUBIA: Before we do, I don't think it's
13 going to change the issue that Board Member Montoya raised,
14 which means that in fact we will never get to a point to
15 where Agave is going to be an acceptable bidder given the
16 issue with the notary.

17 MR. FLORES: Mr. Chairman, I don't know if that's
18 a fact. It could be a legal problem with the notary. It
19 doesn't necessarily mean that that bid should be rejected.

20 I'm not an attorney, but my basis is on the fact
21 that the signing of a piece of paper before or after, you
22 don't do it because you do it electronically, doesn't seem
23 to matter now because we can waive it. So that's a legal
24 technicality with regard to that instrument, not
25 necessarily whether or not the low bid was acceptable.

1 CHAIRMAN SCHORR: Do I hear a motion to continue
2 this matter?

3 MR. FLORES: I move.

4 CHAIRMAN SCHORR: Move to continue.

5 Second?

6 Then we need a motion either to accept or reject
7 this bid if we're not going to continue it.

8 MR. HOUSEHOLDER: I'll make a motion that we
9 accept the bid.

10 CHAIRMAN SCHORR: Motion to accept the bid made
11 by Mr. Householder.

12 MR. ACOSTA: Let's make sure we understand which
13 bid is being considered here.

14 CHAIRMAN SCHORR: Mr. Householder, you're making
15 a motion for the one that's been recommended by staff,
16 correct?

17 MR. HOUSEHOLDER: Yes.

18 CHAIRMAN SCHORR: We're doing it again.

19 MR. MONTROYA: I'll second it.

20 CHAIRMAN SCHORR: The motion has been made and
21 seconded.

22 Further discussion or comment?

23 All in favor say "aye."

24 All against?

25 Does the Board understand the implications of

1 what Mr. Acosta has correctly stated, which is that the
2 consequence of that will be the award to the next person in
3 line?

4 MR. FELDMEIERS: I think we have to go through our
5 motion ourselves.

6 CHAIRMAN SCHORR: No, we don't. It happens by
7 operation of law, as I understand it from Mr. Acosta.

8 MR. ACOSTA: No. I'm not saying that. All I'm
9 saying is that it's not advisable for the Board to send it
10 to rebid or to do something else on the basis that it's
11 difficult.

12 CHAIRMAN SCHORR: What is the consequence of a
13 motion to reject the bid?

14 MR. ACOSTA: Then the next step will be to
15 consider the second bidder and decide whether to award it
16 to the second bidder.

17 CHAIRMAN SCHORR: Have we taken roll call on that
18 yet?

19 Would you repeat the motion, please? Do you want
20 to make a motion to accept the bid?

21 MR. HOUSEHOLDER: I'll make a motion to accept
22 the bid that the staff has recommended.

23 MR. FLORES: Second.

24 CHAIRMAN SCHORR: And seconded by Mr. Flores.

25 All in favor say "aye."

1 All opposed.

2 The motion fails to carry.

3 Now, according to Mr. Acosta we can take action
4 on the next bidder -- apparent low bidder or continue the
5 matter.

6 The Chair will strongly recommend that we
7 continue the matter.

8 MR. ZUBIA: I'll make that motion.

9 CHAIRMAN SCHORR: The motion has been made to
10 continue.

11 MR. FELDMEIER: Second.

12 CHAIRMAN SCHORR: Mr. Feldmeier seconded.

13 All in favor say "aye."

14 Passes.

15 MR. ZUBIA: Nay.

16 You didn't ask for nays.

17 CHAIRMAN SCHORR: Did you say "nay"?

18 MR. ZUBIA: Nay.

19 CHAIRMAN SCHORR: Our next item is Number 28.

20 Before we leave that motion, I would hope that
21 the staff understands the frustration of the Board in
22 dealing with this noncollusion affidavit. I strongly
23 recommend that you take steps forthwith if you feel it's
24 anachronistic and no longer necessary, that you eliminate
25 it from the bidding requirements so we don't have to face

1 the frustration of having to deal with a requirement which
2 the Department itself seems to feel is of no great benefit.

3 MR. TRAVIS: Mr. Chairman, we will undergo that,
4 and we will have that addressed at the next meeting. I
5 would like to point out that as you see in these bids,
6 mistakes are made by the bidders continuously. So these
7 mistakes and these issues will be before the Board to the
8 best that we can address them. But we will continue to
9 have bids with errors.

10 MR. ZUBIA: It is recognized, and I agree with
11 that 100 percent. In fact, we're going to be challenged a
12 lot more given the economic times that we have, so I will
13 actually go one step further, Mr. Chairman, and ask that
14 the Board get a briefing on the whole bid process, its
15 specifications, what's required and see if the whole thing
16 needs to be updated because of the electronic age, not just
17 that one piecemeal change. I certainly don't want to face
18 this on every meeting we have where something may be
19 outdated.

20 CHAIRMAN SCHORR: Your point is well taken.

21 Shall we move on? Number 28.

22 MR. FORSTIE: Number 28 is a statewide project
23 that went out to bid for statewide dynamic message signs.
24 The proposed work consists of furnishing and installing
25 dynamic message signs at several locations on five

1 different highways throughout the state. You can see on
2 the map which area around the state, from I-8 to I-10 and
3 some signs up on 264 and the reservation.

4 The low bidder for this project was C S
5 Construction, which bid came in at \$1,068,725 and the
6 State's estimate is \$1,290,752.50. That was 17 percent
7 under the State estimate, and there were several reasons.
8 The main two reasons why it came in lower are he gave us a
9 lot better price for the flex model attenuators. We had
10 estimated those at 550 unit price, and he came in at \$120,
11 which was a difference of 120,000. Then also electrical
12 conduit, he came in significantly less than what we had
13 estimated.

14 So considering all those factors, we think we
15 have a very reasonable and competent bid and recommend the
16 award to C S Construction on this project.

17 MR. FLORES: So moved.

18 MR. HOUSEHOLDER: Second.

19 CHAIRMAN SCHORR: Moved by Mr. Flores and
20 seconded by Mr. Household.

21 All in favor say "aye."

22 Any opposed?

23 So ordered.

24 Our next item is Item 24, and the Chair will be recusing
25 himself on that item.

1 Mr. Householder, do you want to take over?

2 MR. HOUSEHOLDER: I don't want to take over, no.

3 CHAIRMAN SCHORR: But you will.

4 (Chairman Schorr departs meeting room.)

5 VICE CHAIRMAN HOUSEHOLDER: Doug, are you going
6 to tell us what this project is all about and what's left
7 out or why the low bidder didn't get the bid, or what?

8 MR. FORSTIE: Item Number 24. Item Number 24 is
9 a major construction project that we put out to bid on U.S.
10 93, roughly from the Colorado River bridge to Hoover Dam
11 down to Milepost 17. It's about a 15-mile-long project,
12 constructing a new roadway parallel to the existing
13 roadway, number of bridges, box culverts, major work on
14 this particular project.

15 The low bidder on this project is FNF
16 Construction. They came in with their estimate or bid of
17 \$71,269,683.07. The State's estimate for this particular
18 project was \$86,311,400. They were \$15 million under the
19 State's estimate.

20 We have had bid protests filed on this project by
21 two of the contractors: one being Scarsella and the second
22 bid protest filed by Fisher -- Fisher Industries doing
23 business as Southwest Asphalt Paving.

24 I'd like to read -- this is all in your Board
25 packet, but I would like to read parts of this anyway so

1 that it's clear what the issues are here on this particular
2 bid.

3 "Scarsella Brothers, Incorporated, was read as
4 the apparent low bidder at the bid opening with an amount
5 of \$69,854,463.54. Subsequent to the bid opening, staff's
6 analysis of the bid revealed that in interpreting the bid
7 in accordance with Standards and Specifications, 102.1,
8 paren A and paren C, resulted in Scarsella's bid actually
9 being \$73,501,917.04."

10 This is a much similar issue we talked about in
11 the previous projects where you take the quantity times the
12 unit bid price and extend that summation at the end.
13 That's where the total of 73-plus million came from
14 Scarsella. Applying this portion of our specifications
15 resulted in Scarsella being Bid Number 3 instead of the
16 apparent low bidder when it was read at bid opening time,
17 and the net result was that FNF now is the low bidder on
18 this particular project.

19 VICE CHAIRMAN HOUSEHOLDER: That's the end of
20 your report?

21 MR. FORSTIE: No. I've got a couple of more
22 things.

23 The Standards and Specifications state, "In case
24 of discrepancy" -- I've already been through that.

25 "Aside from the standard specs, if the Federal

1 rules were applied to this situation, the Department and
2 the Board could not allow Scarsella's bid to be reformed to
3 make it the low bidder. Even the most lenient standard
4 would require that the intent of the bidder would have to
5 be discernible on the face of the bid.

6 "In order for the Scarsella bid to be reformed to
7 be the low bidder, the Department would have to make
8 inferences that are not apparent from the bid.

9 "The bid that was originally read as the second
10 low bidder, FNF Construction, Incorporated, is the lowest
11 and responsible bidder."

12 Then there's certainly the bid protest from
13 Fisher. "The bidder that is now the second low bidder,
14 Fisher's Sand and Gravel, doing business as Southwest
15 Asphalt Paving, has argued that the FNF bid should be
16 rejected as being unbalanced to the detriment of the
17 Department.

18 "Fisher argues that FNF front-loaded its bid by
19 bidding high on items that would be performed earlier in
20 the project and low on items that will be done later.
21 Staff has analyzed FNF's bid in light of Fisher's protest.
22 It does not agree with Fisher's position. Fisher has not
23 established that FNF's bid is unbalanced to the extent
24 claimed.

25 "Analysis of the bid reveals that although there

1 were differences in some individual bid items, taking the
2 bid as a whole does not show that there was unbalancing to
3 the detriment of the Department.

4 "While some items were bidded higher by FNF than
5 Fisher, bids for related items done at the same time
6 counter balanced alleged discrepancies.

7 "For example, while the FNF bid for erosion
8 control berms were higher than Fisher's, FNF's bid on other
9 early earthwork items was lower than Fisher's.

10 "FNF also explained that certain items would cost
11 more than they would on normal projects due to the site
12 conditions of this project.

13 "Also some areas of the claimed unbalancing show
14 relatively small differences between the bidders that can
15 be explained by different approaches to the work.

16 "For example, the difference in the bids in
17 paving and related items amount to about 15 percent of
18 Fisher's bid on these items. 15 percent can be explained
19 by the different means and methods of each contractor and
20 does not establish intent to unbalance these items.

21 "State engineer does not believe that FNF's bid
22 is unbalanced to the detriment of the Department. State
23 engineer therefore recommends award of the contract to FNF
24 Construction.

25 VICE CHAIRMAN HOUSEHOLDER: Is anybody here from

1 Scarsella that would like to speak?

2 MR. EBE: Thank you, Mr. Vice Chairman, members
3 of the Board, Deputy Director and staff. My name is Jason
4 Ebe. I'm an attorney and partner with Snell & Wilmer law
5 firm in Phoenix. My address is 400 East Van Buren,
6 Phoenix, Arizona, 85004, and I represent Scarsella
7 Brothers, the low bidder on this project.

8 Scarsella Brothers was founded some 50 years ago
9 by two brothers following their service to this country in
10 the second world war. The company is run by five sons of
11 one of the brothers, and they do almost exclusively public
12 works. They've been performing horizontal construction for
13 the states of Washington and Idaho since the 1950s.
14 They've never walked off a job. They've never sued or been
15 sued by an owner regarding a contract dispute.

16 Scarsella submitted the low total bid of \$69.8
17 million for this job. This bid is more than \$16 million
18 lower than the State engineer's estimate and more than
19 \$1.4 million lower than the next bidder, FNF.

20 As set forth in the papers, with which you're
21 familiar, there was a clerical error in the bid. The
22 Department discovered it. It is apparent from the face of
23 the bid it could be corrected using information solely from
24 the face of the bid. The explanation is set forth in the
25 papers, and I'll be happy to review it again in detail with

1 you, but in the interest of time I'll proceed.

2 Rather than allow Scarsella to correct the error,
3 the Department on its own recomputed Scarsella's bid to
4 increase the unit price for embankment curb from the
5 intended \$6.50 per lineal foot to \$75, which is more than
6 11 and a half times greater than what was intended and
7 nearly 10 times greater than the Department's own estimated
8 unit price.

9 The Department then used this computation to
10 price Scarsella greater than FNF. The State engineer had
11 the power to correct this error. You as the Board have the
12 power to correct this error, and doing so is consistent
13 with Arizona law. It's consistent with Federal law. It's
14 going to save the Department more than \$1.4 million than
15 the State engineer otherwise proposing that you pay for no
16 additional worker benefit to the Department.

17 I've been here since 7:45 this morning. I was
18 the first person in the room. I've listened through the
19 four hours of hearing today, and I've heard everything that
20 talks about the Board's exercise of discretion. You've
21 voted in favor of awarding contracts in the exercise of
22 discretion, and you've voted against awarding contracts in
23 the exercise of discretion.

24 Having sat through this hearing, this would be
25 the first instance on the agenda where the Department is

1 recommending that you don't exercise any discretion. And
2 oddly enough, it is the situation where you have the
3 opportunity to save \$1.4 million, which is more than the
4 total price of some of these projects that we've been
5 looking at.

6 As you know, in public contracting it's important
7 for you to look to Federal regulations just as courts look
8 to Federal precedents. This is particularly appropriate
9 when you have 94 percent of the funding coming from the
10 Federal government.

11 The Federal acquisition regulations, and I
12 appreciate Mr. Jackson, who represents FNF, pointing out
13 the correct citation in his brief that he filed. It's
14 Section 14.407. It's entitled "Mistakes In Bids." It
15 says, "After the opening of bids contracting officer shall
16 examine all bids for mistakes. And in cases of apparent
17 mistakes, the contracting officer shall request from the
18 bidder a verification of the bid, calling attention to the
19 suspected mistake. And if the bidder alleges a mistake,
20 the matter shall be processed in accordance with this
21 section before award."

22 The next section talks about clerical mistakes,
23 and says, "Any clerical mistake apparent on its face, the
24 bid may be corrected before award. The contracting officer
25 shall obtain from the bidder a verification of the bid

1 intended."

2 This fits our situation perfectly. A clerical
3 mistake on the face of the bid can and should be corrected
4 after calling the bidder's attention to it.

5 The next section, 14.407-3, it's entitled "Other
6 Mistakes Disclosed Before The Award." This is the section
7 that Mr. Jackson quotes in his papers. "In order to
8 minimize delays in contract awards, administrative
9 determinations may be made in connection with mistakes.
10 The authority to permit correction of bids is limited to
11 bids that as submitted are responsive to the invitation and
12 may not be used to admit" -- "correction of bids to make
13 them responsive."

14 We are not dealing with any situation here as to
15 whether Scarsella's bid is responsive or nonresponsive.
16 It's undisputed that the bid is responsive. The issue is
17 the correction of the clerical error.

18 "If a bidder request" -- this is again from the
19 FAR. "If a bidder requests permission to correct a mistake
20 and evidence establishes both the existence of the mistake
21 and the actual intended bid, the agency may make a
22 determination permitting the bidder to correct the
23 mistake."

24 It does go on to say that if this correction
25 would result in displacing one or more lower bids, the

1 determination shall not be made unless the existence of the
2 mistake and the bid actually intended are ascertainable
3 from the bid itself. That's not an issue here.

4 First of all, Scarsella wasn't one of the higher
5 bidders that's now trying to become the lowest bidder.
6 Scarsella was and is the lowest bidder that's trying to
7 confirm its lowest bid. And in addition, as set forth in
8 the papers, the correction can be ascertained and made
9 solely from the information on the face of the bid.

10 The Department itself expressly recognized back
11 in a January 2008 memo, included in our paper, that
12 mistakes happen, and the Deputy Director said that to you
13 just a few minutes ago, "Mistakes happen. Mistakes happen
14 frequently." In this instance, paying an additional
15 \$1.4 million to another contractor for no additional work
16 is detrimental to the Department.

17 FNF in its paper cites ARS Section 28-6923 in
18 support of free, open and competitive bidding. We
19 absolutely agree with that. Moreover, the purpose of
20 competitive bidding is, and this is quoting from the
21 Arizona Supreme Court in the Osborn case cited in our
22 papers, "It's to prevent the plundering of the taxpayers,
23 and as between two bidders equally responsible, the public
24 entity cannot reject the lower bid."

25 Now, focus has been made on ADOT Standards and

1 Specification 103.02. The Department appears to be relying
2 on that provision as grounds for inability to exercise
3 discretion in accepting Scarsella's lower bid.

4 Please consider the following: The section
5 begins with the language -- I've got my nice new 2008 blue
6 book -- quote, "The Department will consider the following
7 in interpreting proposals." That tells me two things:
8 First of all, the Department gets to make an
9 interpretation. It's not simply reading it. It's
10 interpreting it, which requires exercise of discretion.
11 And it should consider the balance of the language in
12 making the interpretation, but that application is not
13 mandatory.

14 Moreover, the preceding Section 103.01 states the
15 following, quote, "The right is reserved to reject any or
16 all proposals, to waive technicalities or advertise for new
17 proposals if in the judgment of the Department the best
18 interest of the Department will be promoted thereby."

19 Now, if I can take a very brief minute to digress
20 because we just had a considerable amount of discussion,
21 particularly between the Chairman and Mr. Acosta, the
22 assistant attorney general, with respect to your
23 disposition of one of these other bids. And I want to make
24 a point of this because I assume this is the only time I
25 get to address you, and I don't know if this is going to

1 come up. We're obviously not seeking that you reject all
2 the bids, but I want to make it clear to you that to the
3 extent you were informed or have an understanding that you
4 as the Board do not have the discretion to reject all bids
5 and rebid something, that's incorrect.

6 Your specifications clearly say that if it's in
7 the best interest of the Department, the Department can
8 reject all bids. The reason why I'm bringing this up --
9 I'm not here to talk about that previous action, but I'm
10 concerned based on what I heard, that the Board may be
11 misinformed or misunderstand its discretion to reject or
12 accept an award or to reject all awards.

13 And it's consistent with the position that the
14 Department seems to be taking relative to my client's
15 cause, that it has no discretion to allow the correction of
16 the award, and that you have no discretion to allow the
17 correction of the award, and I think that's incorrect.

18 Now, FNF, through its counsel, argues that ADOT
19 should not set a precedent of allowing contractors the
20 opportunity to correct mistakes. I think that's flat
21 wrong. There is a precedent to allow that, and it's the
22 proper thing as evidenced by the detailed Federal
23 acquisition regulations on the procedure to address and fix
24 bid mistakes as well as the body of case law both Federal
25 and in Arizona allowing the correction of mistakes. The

1 Marana case in Arizona allows it. It quotes the
2 restatement of contracts. Arizona follows the restatement
3 of contracts. The restatement allows reformation. The
4 Department's own specifications that I've read to you allow
5 that discretion, and that's not the only place it appears
6 in Arizona law.

7 Arizona has accepted the model procurement code
8 for state and local governments. It's ARS Section
9 41-2533F. It says, "The correction or withdrawal of
10 erroneous bids before or after bid opening based on bid
11 mistakes may be permitted, and from the comment to the
12 model procurement code, "An otherwise low bidder should be
13 corrected" -- I'm sorry -- "should be permitted to correct
14 a material mistake of fact in its bid including price when
15 the intended bid is obvious from the bid document or is
16 otherwise supported by proof that has evidentiary value.
17 The low bidder should not be permitted to correct a bid for
18 mistake or errors in judgment."

19 This is not that situation. It's been
20 demonstrated to you in the papers as to the intended 6.50
21 unit price. It's consistent with ADOT's prices of it.
22 It's consistent with the backup documentation. It's not
23 necessary that you look at that to correct the error, but
24 it's certainly consistent with that.

25 What's inconsistent with that is to charge 11 and

1 a half times the intended rate for that unit price in order
2 to deprive Scarsella as being the low bidder and to force
3 the Department and the Board to spend \$1.4 million it
4 doesn't need to spend.

5 VICE CHAIRMAN HOUSEHOLDER: Let's kind of wind it
6 down. I think as a lawyer you can speak all day, and we're
7 not going to stay here all day.

8 MR. EBE: I appreciate that, and I'll wrap it up
9 here.

10 There's nothing in the integrity of the bidding
11 price that has been compromised here. Scarsella was a
12 responsive and responsible bidder. The bid was
13 \$69.8 million. Reformation is clearly allowable under both
14 Federal and Arizona law. The Department had the discretion
15 to allow the error to be corrected. You as the Board have
16 the discretion to allow the error to be corrected.

17 And we've heard today about -- certainly we've
18 heard all the time about the current financial crisis. I
19 had a couple of articles just out of yesterday's paper
20 talking about a \$1 billion State shortfall.

21 Ms. Lewis stated in the beginning of her comments
22 that the Department is trying to be, quote, absolutely as
23 frugal as possible, closed quote. And I don't think that
24 the Board can ignore this reality in evaluating the
25 Department's recommendation to reject Scarsella's bid.

1 You have the discretion to make this award to
2 Scarsella. Your discretion will withstand judicial
3 scrutiny. Your award to Scarsella will save the
4 Department, the State and the taxpayers more than
5 \$1.4 million, and you'll put 17 Arizona subcontractors and
6 suppliers to work for the next two years on this project.

7 So for all these reasons -- I appreciate your
8 indulgence on the time, Mr. Vice Chair -- we request that
9 the Board award Scarsella for the \$69 million bid price as
10 corrected and confirmed in our papers.

11 VICE CHAIRMAN HOUSEHOLDER: Thank you. Anybody
12 from Fisher Construction here who wants to speak? I guess
13 they're still happy then.

14 MR. FLORES: Mr. Chairman, I've got a question
15 from staff. Would you please clarify the 6.50 versus 75,
16 and the changes that apparently have occurred, according to
17 counsel in his presentation, that causes this
18 \$1.4 million --

19 MR. FORSTIE: Mr. Vice Chairman and Mr. Flores,
20 the \$75 that was spoken of is actually the number inked
21 into the bid proposal that was submitted during the time of
22 bid opening.

23 MR. FLORES: What is the 6.50 that was alluded
24 to?

25 MR. FORSTIE: That was a figure that the attorney

1 brought up, what Scarsella claimed should have been priced
2 as the unit price. That was not the figure on the
3 document.

4 MR. FLORES: So the document had the \$75, again,
5 for the simple mind I have, you extended it out. You
6 totaled everything and came up with the numbers, and thus
7 the recommendation that you're concerned with?

8 MR. FORSTIE: That's correct.

9 MR. ZUBIA: Follow-up question. In your
10 professional judgment, I wouldn't know the difference, but
11 I'm assuming you do, what makes more sense, 75 or 6.50?
12 And then just looking at the documents and evaluating, is
13 6.50 more comparable with the other bids that are out there
14 or 75?

15 MR. FORSTIE: 6.50 would be more comparable.

16 MR. ZUBIA: So 75 in your opinion would have been
17 a clear error.

18 And I guess in the follow-up question to that,
19 have we ever in the past allowed for adjustments on the
20 unit price? I seem to recall that we have. So I'm really
21 wanting a verification of that or just a clear no, we've
22 never done it.

23 MR. FORSTIE: To my knowledge, Mr. Zubia, I'm not
24 aware that we haven't made that change in any previous bid
25 openings or awards. I could ask Barry if he's familiar

1 with that, if that's occurred also.

2 MR. ZUBIA: I thought for sure we did do that
3 earlier in the year on an award. I may be wrong. That's
4 why I wanted some input from staff on that.

5 MR. FORSTIE: To my knowledge we have not.

6 Barry, do you want to address that question?

7 MR. CROCKETT: Mr. Vice Chair, Mr. Zubia, I
8 believe, to answer your question, since you've been on the
9 Board my knowledge is we've never corrected a contractor's
10 unit price.

11 And to take that one step further, since this
12 spec was currently written, the Department basically says
13 the way it's going to interpret proposals is that the unit
14 price will govern, even if it's demonstrated after the fact
15 that a clerical mistake may have been made. Since that
16 spec was there to my knowledge we've never done anything
17 other than use the unit price that the contractor submitted
18 in its bid.

19 MR. ZUBIA: I appreciate that in correcting me.
20 I certainly take your word for that.

21 So I guess what this comes down to then is simply
22 just the question as to whether or not -- the issue of the
23 unit price. The unit price is not a question here with
24 regard to Scarsella's bid, right? There's no other
25 questions out there, correct?

1 MR. FORSTIE: Correct. To my knowledge there's
2 no other questions out there.

3 MR. ZUBIA: So what it sounds like to me, we do
4 have some precedent in other cases where we've waived
5 certain requirements and has historically done so on the
6 Board, but in this case what I see is that we have never
7 deviated from using the unit price, which differs from the
8 other two cases that we've just heard.

9 MR. FORSTIE: That's correct.

10 MR. FELDMEIER: I have a question, Mr. Chairman.
11 Does the Board have the ability to deviate?

12 MR. ACOSTA: Are you asking from -- you've got a
13 nice thick packet here, 100 -- I'm sorry. This is Joe
14 Acosta again.

15 You have a nice thick packet, 266 pages. I'll
16 submit to you that the one important page is the last one.
17 You get this nice fat thing, turn it over so that the
18 staple's in the upper right, and if you look at 10302C,
19 those are our rules. These were specifically incorporated
20 into the bid package. It doesn't matter what a Federal
21 rule says. It doesn't matter what would happen in Iowa or
22 Michigan. It doesn't matter even what would happen in
23 Phoenix, if a City of Phoenix job were awarded.

24 The problem that the Scarsella firm faces in this
25 case is that we have a specific provision that is

1 specifically incorporated in this contract that says the
2 Department will not correct errors in unit prices. This
3 isn't one of those discretions. I know you have discretion
4 in many, many things, as has been demonstrated a lot, and I
5 don't disagree with Mr. Ebe in that area. But once you put
6 out on the street a public bid that has a statement in it
7 that says something is not going to happen no matter what,
8 which is what this says, you have to follow it. You can't
9 do otherwise.

10 And it doesn't matter whether other people have
11 the same rule or not, and it doesn't matter whether
12 somebody thinks that another rule will be a better rule to
13 have. It is the rule that was not only in our general
14 conditions that everybody has -- he has the blue book and
15 everybody else does -- but it was specifically incorporated
16 in this contract.

17 Let me compare this to an Arizona case. I will
18 bring in an Arizona case. The contract said that this is a
19 publically-bid contract to sell land, and this is a
20 reported decision from the Arizona appellate courts, and
21 the contract said in it, You've got to make your down
22 payment in two weeks after the hammer falls. And the
23 bidder said, Well, how about three weeks? And the
24 auctioneer even said at the auction, Okay. We'll give you
25 three weeks. And the court said, We don't care what the

1 auctioneer said, the rules were specifically stated in a
2 written document, and they have to be followed. And it
3 doesn't matter that other contracts might have had
4 different rules. The rule that's in the specific contract
5 governs, and it says, Will not correct errors even if it's
6 a clerical error. That's a big problem here.

7 And so we can hear a lot about how Scarsella
8 Brothers intended certain things and didn't intend certain
9 things. And the problem is even if you believe them,
10 you've got to take what's in the bid, and you can't take an
11 after-the-fact correction, so that is a problem.

12 And so to the extent you're asking what's the
13 Board's authority, the Board's authority is to follow what
14 the Board has said by issuing -- or approving the issuance
15 of the specification that has the sentence in it.

16 VICE CHAIRMAN HOUSEHOLDER: I need to close this
17 down for one second. I understand the lady here needs to
18 go the bathroom, and she's a very important lady, and we
19 can't go on without her.

20 So you're excused, young lady.

21 (Recess was taken from 1:27 p.m. to 1:34 p.m.)

22 VICE CHAIRMAN HOUSEHOLDER: I'm sorry I
23 interrupted you. Do you have any more that you want to
24 tell the Board?

25 MR. ACOSTA: So after having probably spent too

1 much time telling you, I'll just tell you that you don't
2 have the authority to go outside the published
3 specifications that were specifically included in this
4 contract, so you don't have any authority here. This isn't
5 like the other ones where the specifications did say, May
6 be considered irregular. May be rejected.

7 Now, just for the record here, and in my opinion
8 you don't even have to really listen to this, but I'll just
9 tell you why you shouldn't do it even if the specifications
10 didn't exist, even if you had no spec at all. If you look
11 at Pages 6 and 7 of your book here -- this is part of the
12 argument that was made by Scarsella's lawyer -- on Page 6
13 you can see the three numbers that were -- this is the way
14 they put it in the bid. Turn over to Page 13, and at the
15 top you can see what they say that they estimated and
16 intended. Actually, if you look at Page 13 by itself you
17 can see this better.

18 How are we as the -- "we" meaning the Department
19 staff. How is the Department staff supposed to get from
20 the numbers that are in the bid as submitted to the numbers
21 that are on the top of Page 13? That's assuming you even
22 want to consider this.

23 The point that Doug Forstie was making was you've
24 got to take a lot of steps, and those steps are indicated
25 on Page 7 of the letter -- excuse me -- Page 7 of your

1 packet here. And you've got to go through five steps, and
2 if you go through those five steps, one, they are
3 complicated; two, if you go out of order on any of the
4 steps; and three, if you don't do them exactly right; and
5 four, you've got to assume that even though they made
6 mistakes, they didn't make mistakes in other areas. You've
7 got to assume where the mistakes were made and where they
8 weren't. This wasn't obvious on the face of the bid
9 anyway. You don't know what was bidded. That's Doug's
10 point.

11 My point is your authority is to follow the rule
12 that was right in here, and it says the Department is not
13 going to change. It doesn't matter if the Federal
14 government might or might not or anything else.

15 VICE CHAIRMAN HOUSEHOLDER: Thank you, Joe.

16 Do we have any questions?

17 MR. FELDMEIER: Joe, please, at the bottom of
18 every bid it says "total low bid," is that right, the
19 bottom line?

20 MR. ACOSTA: Yes.

21 MR. FELDMEIER: Here's your number?

22 MR. ACOSTA: Yes.

23 MR. FELDMEIER: So why do we have that if we
24 review all the unit numbers to come up with what we should
25 have or believe is the real number? Why is that more

1 important than the total at the very end?

2 MR. ACOSTA: Well, Barry and Doug can explain
3 this better. As a lawyer I'll just try, not knowing a heck
4 of a lot about how things actually get constructed. But
5 one easy part of this is this: When you're building a
6 road, the way ADOT pays, ADOT does not pay a lump sum for
7 the whole project. We could theoretically say, Give me one
8 number, 70 million, 50 million, whatever it is. That's
9 what you get paid at the end of a job.

10 The way ADOT pays, and if you look on pages --
11 starting from Page 64 of your record through the next
12 several pages, there's a log bid schedule. And the way
13 ADOT pays is by items of work and by how much of the item
14 of work you do, and the amount -- and the quantity can
15 change, and it's not really a change. It's just the
16 world's imperfect. You can't figure out exactly how many
17 tons of concrete you need and exactly how many pounds of
18 something, whatever it is, pounds, inches. Things happen,
19 so they pay based on the unit prices. The bid is figured
20 based on the best estimate we have of the quantity times
21 unit prices.

22 That's really where the judgment is exercised,
23 the unit prices of all the items. That's where the bidder
24 really thinks about it and says, How much am I going to
25 charge for this item? The summation, that's -- I don't

1 know if I could have done it in fifth grade, but maybe I
2 could have. I should have been able to add up all of the
3 numbers. First you do the multiplication and then you do
4 the addition. I should be able to come up with a number.
5 That's not the judgment part. The judgment part comes in
6 unit prices.

7 So why do we have the bottom? Well, one reason
8 is that when they read the bids, they want to be able to
9 give the bidders some idea who the apparent low bidder is.
10 What they do is, they walk to the bid opening room.
11 They've got a bunch of envelopes. They open the envelopes.
12 They're not going to spend ten hours going through all
13 these bids and then say who the winner is. These guys want
14 to hear now what's going on, so they read that bottom line.
15 But the bottom line is not the legally operative number,
16 and it's not the number that reflects the judgments that
17 were made by the bidders.

18 So the point that was being made here though, if
19 you somehow got past the spec, which you can't, if you look
20 at these steps that are listed on Page 7 of the packet,
21 which is Scarsella's letter, and look through all the
22 things you have to do and all the guesses, you have to do
23 the guesses in order, and you have to figure out some
24 things are right and some things are wrong. You can't get
25 there anyway.

1 So the only feasible way to get Scarsella's bid
2 back to the 69 million is to ask them, and that's the real
3 true bites of the apple. Once you start asking them, What
4 did you mean? What did you think? You've got to be able
5 to determine from the bid what the intent is or else you
6 might as well not open them -- might as well not have them
7 submitted in secret and opened at a public gathering.

8 Anyway, maybe I've gone over my time. Those are
9 the two points, and I would also recommend that before you
10 make any decisions you should let FNF have their say.
11 Whatever time you want to give them to respond is fine, but
12 FNF is here.

13 VICE CHAIRMAN HOUSEHOLDER: Any more comments?

14 MR. FLORES: No. I don't have any comments, but
15 one way to at least bring this to a conclusion is to vote
16 on it. So I'd like to make a motion that we accept the
17 recommendation from staff.

18 VICE CHAIRMAN HOUSEHOLDER: Do I have a second?

19 No second?

20 MR. FLORES: I think -- you know -- I don't --
21 there must be some procedural explanation from our attorney
22 on whether or not to continue this discussion for the rest
23 of this afternoon without formally making a motion. I
24 mean, by moving and second doesn't mean that you're going
25 to proceed with a positive -- for an affirmation. We could

1 be here for the rest of this afternoon if this Board
2 doesn't at least initiate the beginning of an end to it, so
3 I don't understand why there isn't a second to continue the
4 discussion.

5 MR. ZUBIA: Well, I think after we make the
6 motion then it closes down the public portion of it. We
7 can't have anybody else up here from the public.

8 MR. FLORES: That's not true.

9 VICE CHAIRMAN HOUSEHOLDER: I don't think so.
10 Anybody's got time to comment after the second.

11 MR. FLORES: The only thing that can happen is if
12 someone calls for the question that stops the procedure, I
13 believe. So if the Board is concerned that I would call
14 for the question about 5:00 in the afternoon, yeah, I
15 would.

16 My only concern is that -- we've heard a long
17 explanation by one side. I'm assuming we're going to hear
18 the same from the other side, and he should as well, but
19 eventually this Board has to make a decision one way or the
20 other, and we're not going to do it unless we at least make
21 a motion, take a second and discuss it.

22 I'll ask again. I move that we accept the
23 recommendation, and I'd ask someone to second it.

24 MR. ZUBIA: It doesn't matter to me one way or
25 the other. I don't think it speeds it up or slows it down

1 by accepting the motion now.

2 VICE CHAIRMAN HOUSEHOLDER: There's no second
3 then.

4 FNF.

5 MR. FLORES: Mr. Householder, was there a second
6 or not?

7 VICE CHAIRMAN HOUSEHOLDER: No.

8 FNF, would you like to talk?

9 There he is.

10 MR. JACKSON: Very briefly.

11 VICE CHAIRMAN HOUSEHOLDER: I hope so.

12 MR. JACKSON: My name is Steve Jackson. I'm an
13 attorney. I represent FNF. My address is 3550 North
14 Central, Phoenix, Arizona.

15 FNF was -- is the low bidder on this project.
16 FNF is pleased with being the low bidder, is excited about
17 doing the project, has a lot of experience with ADOT work
18 as you all know.

19 There's very specific reasons that ADOT has the
20 specifications that define how the bid will be interpreted.
21 Those were put into effect many years ago, and it was
22 designed to shorten the amount of time that staff and you
23 all have to go through these proceedings. There need to be
24 particular requirements.

25 The fact Scarsella is and was the apparent low

1 bidder is because the total they submitted at the bottom of
2 their bid sheet was the lowest bid, but that is not how the
3 bids are calculated. The bids are calculated on unit
4 price, and based on unit price FNF is the low bidder.

5 What Scarsella says today is, We are a fine
6 company, and we aren't arguing with that. FNF is a fine
7 company, a very experienced company and a company based in
8 Arizona. That's not the issue for you.

9 They made a mistake. They're here to tell you
10 they made a mistake, and then they want to tell you that
11 you have the authority to reform the bid, and you do not
12 under your specifications.

13 In a future time on other jobs, should you choose
14 to, you can direct staff to go back and consider rewriting
15 your specs, but as far as this specification, it's very,
16 very clear that unit price is controlled in clerical
17 errors, and theirs was not a clerical error. Clerical
18 errors have a specific definition, and it means apparent on
19 its face, and you cannot tell what their bid was from
20 looking at the face of these documents.

21 It's not a clerical error, but if it was, you
22 don't have the discretion on a clerical error, and unit
23 price absolutely controls. And what they are here to say
24 is, We made a mistake. We intended for our representative
25 to write down different numbers, and had they written down

1 the numbers we intended, we would be low. That may be true
2 for a lot of your bidders and a lot of your projects, but
3 for you to exercise discretion today to look beyond this
4 and allow a bidder to submit what they intended, Let me
5 tell you what I intended, I would suggest to you, and I
6 don't have the opportunity to come to that many of your
7 meetings, but I suspect that it will be well beyond 5:00 in
8 the afternoon before you would get done with these.

9 The purpose as I understand it is to have a very
10 specific procedure that is very clear that the unit price
11 controls. And you've heard in the discussion about the
12 other bids, the other bidding contracts, that the
13 procedures are followed in every case. They take the unit
14 price. They extend it. They total it. If there are
15 mistakes, they sort them out.

16 One other thing to remember, you implemented an
17 electronic bidding procedure. Had Scarsella taken
18 advantage of that we all wouldn't be here today, because if
19 what they present is true, they would have been able to see
20 on the screen, because the screen does the calculation,
21 that their numbers didn't total right, and they could have
22 corrected their error.

23 They chose not to take advantage of your system.
24 They chose to follow an old procedure of calling in numbers
25 and relying on somebody to write them again according to

1 what they are submitting. You cannot determine it from the
2 face of the document, but if that were the case that that
3 is what happened, that is what happens many times in
4 bidding. Public bidding is something that in order to have
5 a level playing field you need to have understood rules.
6 And when you look at what Joe directed you to look at on
7 the back page, it doesn't say it's discretionary. Item A
8 says, "Unit price shall govern."

9 And I would say to you that FNF, based upon your
10 rules, your regulations and your specifications is the low
11 bidder on the job, is excited about doing the job and doing
12 the project. I'd ask you to follow the recommendation of
13 the staff in that regard. Thank you.

14 VICE CHAIRMAN HOUSEHOLDER: Any questions? If
15 not, I'll ask again for a motion on Item 24.

16 MR. FLORES: I so move.

17 MR. MONTTOYA: Second.

18 VICE CHAIRMAN HOUSEHOLDER: All in favor?

19 MR. ZUBIA: I'm going to vote aye on this and
20 it's because, one, I like the presentation that the
21 attorney for Scarsella presented. I followed the logic,
22 the reasoning; however, given the explanation of our
23 attorney as well as the confirmation from our staff that
24 we've never before deviated from the policy of extending
25 the unit amount, I simply can't support the argument that

1 Scarsella was the low bidder. Again, with that I support
2 the motion and award -- I support the award of the contract
3 to FNF.

4 VICE CHAIRMAN HOUSEHOLDER: Do I hear nays?

5 MR. FELDMEIER: Mr. Chairman, I would also vote
6 aye. I'm uncomfortable, although I'd really rather hit a
7 low bid, but I understand the rationale behind it. I
8 appreciate the explanation that the attorneys on all three
9 sides have given us. In the end the last page prevails,
10 what was there, and we have no latitude, and that's what is
11 important to me. If we had the latitude I would be voting
12 in an entirely different way.

13 VICE CHAIRMAN HOUSEHOLDER: Bob.

14 MR. MONTTOYA: Mr. Chairman, I like Mr. Zubia's
15 and Mr. Feldmeier's comments. I will be voting aye as
16 well, because of what the Department does state we have to
17 do.

18 VICE CHAIRMAN HOUSEHOLDER: It looks like Item 24
19 has passed. FNF has the contract.

20 Let's go to Item 29. Any comments or suggestions
21 from the Board how we want to make the next meeting agenda,
22 if not, consent agenda? Do I have a motion to approve the
23 consent agenda?

24 MR. FLORES: Moved.

25 MR. MONTTOYA: Second.

CHAIRMAN SCHORR: All in favor say "aye."

I think we have new names here that would like to -- we've had the Mayor and Rusty.

Kathy Bruck.

MS. BRUCK: Good afternoon, Mr. Vice Chairman and members of the Board. I'm Kathy Bruck. I'm a member of the Bullhead City Council. I'm here this afternoon on behalf of Mayor Jack Hakim, my colleagues on the City Council and the residents and guests to Bullhead City.

My purpose this afternoon to stand before you and publicly thank ADOT for actions and projects that have recently been achieved in our community. Earlier this month crews completed pavement preservation projects along State Route 95 in Bullhead City at two heavily traveled intersections, one of which is the intersection of State Route 95, State Route 68 and the Laughlin bridge connecting to Nevada State Route 163.

As you are well aware, this intersection sees tens of thousands of cars and heavy trucks every day as they pass through our town. So needless to say, new pavement for this intersection was very much welcomed by the residents of our community.

On the topic of heavy trucks, I wanted to again thank ADOT and recognize the work and cooperation of the Kingman district engineer's office in successfully lowering

1 the speed limit for commercial trucks traveling down State
2 Route 68 into Bullhead City. We understand that splitting
3 the speed limit like this has not been practiced before in
4 Arizona, but we are grateful for the willingness of ADOT to
5 make this change, and we, of course, are hoping it will
6 reduce the number of runaway trucks entering Bullhead City.

7 Lastly, I wanted to comment on a positive working
8 relationship our City officials maintain with the ADOT
9 community district engineer's office. We hold regular
10 quarterly coordination meetings and now looking positively
11 into the future for the pavement preservation project of
12 State Route 95 in much of Bullhead City.

13 This important local project will have a
14 tremendous positive impact to our area, and we are grateful
15 to ADOT in recognizing our community and working well with
16 our city. Thank you.

17 VICE CHAIRMAN HOUSEHOLDER: Thank you.

18 Joe Husband.

19 MR. HUSBAND: I will start way back here in the
20 interest of time, Mr. Vice Chairman and the Board. Yes, I
21 do thank you again as always for the opportunity. I know
22 many of you are unaware that I existed before the last
23 meeting, and that is probably to your good luck.

24 I come to you today, Joe Husband, as you
25 mentioned, representing Arizona Airport Association, which

1 is airports and aviation transportation. It's a very
2 important element of transportation within the state and
3 within the country.

4 This Board has always recognized that. Sometimes
5 others kind of forget that airports and aviation is a mode
6 of transportation just like roads, just like railroads,
7 just like rivers and canals. But I'm here today because as
8 per the last meetings, the Arizona Airport Association is
9 committed to coming before you to just keep you up to date
10 on what's going on with the aviation industry. I will be
11 brief. Some folks that may know me will find that hard to
12 believe, but I will be brief today. We want to keep you up
13 on what's going on. The good news is we're committed to do
14 that.

15 Per the continuance of last month's agenda item
16 on the ADOT's airport grant program, I just wanted to let
17 you know that that's moving along well. We've had one
18 interim meeting and two meetings with ADOT collaboratively,
19 and the aeronautics division has another one planned for
20 this Monday. So we believe that there are some things that
21 can be looked at and that should be a revised. I'm not
22 speaking for ADOT aeronautics, but we think we can meet the
23 deadline of coming back to you at the November meeting.

24 I would tell you that all that is looking, you
25 know, good as far as the collaboration and cooperative

1 efforts; however, there's certainly uncertainty within the
2 economic situation at the State and aviation fund.

3 The Governor has identified the aviation fund as
4 a potential area to look at to settle some of the budget
5 issues. So our legislative committee that I'm chairing is
6 gearing up to try to educate the legislature and do what we
7 can to protect the revenues of the aviation fund to keep
8 airports within the state vibrant.

9 I'd also just want to let you know there's a
10 couple of things coming up. I'd like to just let the Board
11 know that you're invited to attend the Arizona Airport
12 Association conference, which is going to be held next week
13 on 23 October in Scottsdale, Arizona, at the Hilton.
14 That's a one-day deal. There's a Copper State Fly-In at
15 Casa Grande Airport on the 24th to 26th of October, and
16 then the aviation safety advisory group has their annual
17 awards banquet, and you're all welcome to attend that as
18 well on 1 November at 7:00 a.m. at the Doubletree near the
19 airport in Phoenix, Arizona.

20 With that I would just be happy to answer any
21 questions that you may have on any information that I could
22 provide, and I will again thank you for your continued
23 support and your commitment to aviation transportation
24 within the state of Arizona.

25 VICE CHAIRMAN HOUSEHOLDER: Thank you, Joe.

1 Any questions?

2 MR. HUSBAND: I thank you for your indulgence
3 today and have a good day. I was a young man when the
4 meeting started. It seems like a long time ago.

5 CHAIRMAN SCHORR: Julie Brooks.

6 I don't think she's here. I don't see her.

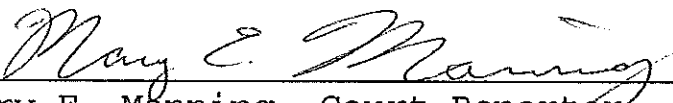
7 I see Steve Jackson of FNF has left, and Jason
8 Ebe has left, so has the other attorney.

9 So I'll take a motion to adjourn, and we'll get
10 out of here.

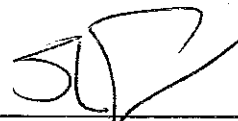
11 MR. FELDMEIER: Got it.

12 (The meeting was concluded at 1:59 p.m.)


SIGNATURE PAGE



Mary E. Manning, Court Reporter
CCR #50444



SL Schorr, Chairman



Victor Mendez, Director